

1           BEFORE THE ILLINOIS HOUSE OF REPRESENTATIVES  
2                           IMPEACHMENT COMMITTEE

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12           Hearing held on the 22nd day of December, 2008,  
13 at the hour of 12:00 p.m., in Room 114, Illinois State  
14 Capitol, Springfield, Illinois.

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TRANSCRIPT OF PROCEEDINGS

19

VOLUME IV

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1 COMMITTEE MEMBERS:  
2 HOUSE MAJORITY LEADER BARBARA FLYNN CURRIE, CHAIRWOMAN  
3 REPRESENTATIVE JIM DURKIN, MINORITY SPOKESPERSON  
4 REPRESENTATIVE EDWARD J. ACEVEDO  
5 REPRESENTATIVE SUZANNE BASSI  
6 REPRESENTATIVE PATRICIA R. BELLOCK  
7 REPRESENTATIVE WILLIAM B. BLACK  
8 REPRESENTATIVE MIKE BOST  
9 REPRESENTATIVE MONIQUE D. DAVIS  
10 REPRESENTATIVE ROGER L. EDDY  
11 REPRESENTATIVE MARY E. FLOWERS  
12 REPRESENTATIVE JOHN E. BRADLEY  
13 REPRESENTATIVE JOHN A. FRITCHEY  
14 REPRESENTATIVE SUSANA A. MENDOZA  
15 REPRESENTATIVE GARY HANNIG  
16 REPRESENTATIVE CONSTANCE A. HOWARD  
17 REPRESENTATIVE LOU LANG  
18 REPRESENTATIVE FRANK J. MAUTINO  
19 REPRESENTATIVE CHAPIN ROSE  
20 REPRESENTATIVE JIM SACIA  
21 REPRESENTATIVE JIL TRACY  
22 REPRESENTATIVE ARTHUR J. TURNER  
23  
24

1 CHAIRWOMAN CURRIE: The special investigative  
2 committee will come to order. We have two substitutes  
3 today. Representative Franks is replaced by  
4 Representative John Bradley and Representative Hamos  
5 is replaced by Representative Mendoza.

6 The Clerk will please call the roll.

7 CLERK: Currie.

8 CHAIRWOMAN CURRIE: Here.

9 CLERK: Durkin.

10 REPRESENTATIVE DURKIN: Here.

11 CLERK: Acevedo.

12 REPRESENTATIVE ACEVEDO: Here.

13 CLERK: Bassi.

14 Bellock.

15 REPRESENTATIVE BELLOCK: Here.

16 CLERK: Black.

17 REPRESENTATIVE BLACK: Here.

18 CLERK: BOST.

19 REPRESENTATIVE BOST: Here.

20 CLERK: Davis.

21 REPRESENTATIVE DAVIS: Here.

22 CLERK: Eddy.

23 REPRESENTATIVE EDDY: Here.

24 CLERK: Flowers.

1 REPRESENTATIVE FLOWERS: Here.  
2 CLERK: Bradley.  
3 REPRESENTATIVE BRADLEY: Here.  
4 CLERK: Fritchey.  
5 REPRESENTATIVE FRITCHEY: Here.  
6 CLERK: Mendoza.  
7 REPRESENTATIVE MENDOZA: Here.  
8 Clerk: Hannig. Hannig.  
9 REPRESENTATIVE HANNIG: Here.  
10 CLERK: Howard.  
11 Lang.  
12 REPRESENTATIVE LANG: Here.  
13 CLERK: Mautino.  
14 REPRESENTATIVE MAUTINO: Present.  
15 CLERK: Rose.  
16 REPRESENTATIVE ROSE: Yes.  
17 CLERK: Sacia.  
18 REPRESENTATIVE SACIA: Here.  
19 CLERK: Tracy.  
20 REPRESENTATIVE TRACY: Here.  
21 CLERK: Turner.  
22 REPRESENTATIVE TURNER: Here.  
23 CHAIRWOMAN CURRIE: Thank you. We have a  
24 quorum.

1           And just for the record, I want to indicate that  
2 we have -- as part of the record of this committee we  
3 have some new exhibits that I want just to make note  
4 of in the record.

5           Exhibit 9 would be a December 17th letter from  
6 the chief of staff of the Attorney General regarding  
7 the question of the Governor's motion for appointment  
8 of counsel with pay.

9           A December 18th letter from the committee to U.S.  
10 Attorney Patrick Fitzgerald requesting various  
11 documents and information.

12           A follow-up letter, this is Exhibit 11, of  
13 December 18th requesting additional information from  
14 Director Maram and Tamara Hoffman of the Department of  
15 Healthcare and Family Services.

16           A December 19th letter from the committee to Mr.  
17 Genson and Sam Adam, Jr.

18           And Exhibit 14 would be the December 19th  
19 follow-up information from the Auditor General that he  
20 promised us last week.

21           And December 20th, Exhibit 15, a letter from the  
22 committee to the Governor.

23           And December 16th, a letter from Barry Maram and  
24 Tamara Hoffman to the committee.

1           That is housekeeping.

2           I want to just say that today we plan to hear  
3 from a former United States Attorney. We plan to hear  
4 from the Procurement Policy Board. We plan to hear  
5 from a representative of the Illinois Campaign for  
6 Political Reform. We will have follow-up questions  
7 that were asked of the Department of Healthcare and  
8 Family Services last week. Some of that information  
9 has come to us and we'll have a report on that from  
10 Representative Lang.

11           We have not yet heard from the United States  
12 Attorney in answer to our request for information and  
13 the opportunity to hear from witnesses that are also  
14 relevant to his criminal investigation. We are  
15 hopeful that we might hear from him today. Although,  
16 we don't know the answer to that yet.

17           I do want to make clear to the Governor's counsel  
18 that we will welcome an opportunity to hear from you  
19 if -- tentatively, I would offer tomorrow, December  
20 23rd, as an option. Is that something that you would  
21 like to advise us right now whether you will or not?

22           MR. GENSON: I'd like to be heard. I'd like  
23 to be heard, and if tomorrow is convenient to the  
24 committee, that's fine.

1 CHAIRWOMAN CURRIE: So you'd be ready to  
2 present to us tomorrow?

3 MR. GENSON: I would be ready to present to  
4 you tomorrow whatever witnesses I am going to offer  
5 and I'd like to make a statement.

6 CHAIRWOMAN CURRIE: And pardon me?

7 MR. GENSON: And I would like to make a  
8 statement to the committee.

9 CHAIRWOMAN CURRIE: Okay. Would you like to  
10 do that today if we have time?

11 MR. GENSON: I would like to do that today if  
12 we have time.

13 CHAIRWOMAN CURRIE: Okay.

14 MR. GENSON: Two days before Christmas, Your  
15 Honor -- I'm sorry, Madam Chairman.

16 CHAIRWOMAN CURRIE: I'm sorry, could you say  
17 that again?

18 MR. GENSON: Two days before Christmas, if we  
19 could get done today, it would not be a bad idea.

20 CHAIRWOMAN CURRIE: Okay. And if you could  
21 tell us who it is you intend to call, we would  
22 appreciate knowing that.

23 MR. GENSON: Okay.

24 CHAIRWOMAN CURRIE: All right. Our first

1 witness is going to be John Scully, a former Assistant  
2 United States Attorney General, and I think we've  
3 asked him to come and talk about how easy it is or  
4 isn't to get from the courts an opportunity to provide  
5 wiretaps on telephones or bugs in people's offices.

6 So if you would come forward, please, sir. And  
7 if you would raise your right hand, please.

8 (Mr. Scully was duly sworn.)

9 CHAIRWOMAN CURRIE: Thank you very much.

10 Representative Durkin.

11 REPRESENTATIVE DURKIN: Representative  
12 Currie, one of the things that we had discussed was  
13 perhaps -- I'm not sure if it's the appropriate time  
14 now or later, but just to put into evidence the  
15 Department of Justice manual or the parts of the  
16 manual that set out the protocols for obtaining an  
17 order for the surveillance or the interception.

18 CHAIRWOMAN CURRIE: We will accept that and  
19 that would be Exhibit Number 17.

20 REPRESENTATIVE DURKIN: Thank you. I think  
21 that's been distributed to the members of the  
22 committee.

23 And, Mr. Genson, have you received it?

24 MR. GENSON: Not yet.

1           REPRESENTATIVE DURKIN:  Okay.  If we could --  
2  if someone could provide Counsel with a copy of it, it  
3  would be great.

4           And if you don't mind, Madam Chair, if I could in  
5  a sense maybe direct questions to Mr. Scully.

6           CHAIRWOMAN CURRIE:  That would be dandy.

7           REPRESENTATIVE DURKIN:  Great.  Okay.

8           Mr. Scully, I appreciate you coming here.

9           If you could look over to your left, there's  
10  Mr. Genson.  I'm not sure if you're familiar with him  
11  or not.  But he's representing the Governor.  And Sam  
12  Adam, Jr. and the other counsel.  I forget.  I can't  
13  see the name.

14          But I appreciate you coming here today.  I just  
15  wanted to make sure that you're here voluntarily;  
16  correct?

17          MR. SCULLY:  That's correct.

18          REPRESENTATIVE DURKIN:  And could you just --  
19  what are you here to talk about today?

20          MR. SCULLY:  Just my background and my  
21  knowledge of the process of obtaining authority to  
22  intercept wire communications and oral communications.

23          REPRESENTATIVE DURKIN:  If you can pull the  
24  mic a little closer to you, it would be helpful.

1           Can you just give us some background of your --  
2 your own background, your education, and also your  
3 years of involvement with the United States Attorney's  
4 office?

5           MR. SCULLY: All right. I went to the United  
6 States Naval Academy, graduated in 1969. Was on  
7 active duty for nine years, initially on a ship off  
8 the coast of Vietnam for about six months, then went  
9 to law school, was in the JAG Corps. I went into the  
10 Reserves and was in the intelligence field and retired  
11 as a captain, that's the equivalent of a colonel, back  
12 in 1999.

13           Went to University of San Diego Law School.

14           In 1982, I went with what's called the Organized  
15 Crime Strike Force in Chicago. It was really a field  
16 office in the Department of Justice working under the  
17 Organized Crime Section in D.C.. In 1990, that merged  
18 with the U.S. Attorney's office, so I just went from  
19 being a Special Attorney with the Organized Crime  
20 Strike Force to being an Assistant U.S. Attorney.

21           I was there until September 1st, 2007, when I  
22 retired, with a little over 25 years working for the  
23 Department of Justice, a total of 39 years for United  
24 States Government.

1           REPRESENTATIVE DURKIN: Which U.S. Attorneys  
2 did you serve under?

3           MR. SCULLY: Well, initially, under the  
4 Strike Force we weren't directly under the U.S.  
5 Attorneys, but we worked with them. Dan Webb, Tony  
6 Valuskas. Then when it merged the Strike Force, Ira  
7 Raphaelson and Fred Foreman, Jim Burns, Scott Lassar,  
8 and then Patrick Fitzgerald.

9           REPRESENTATIVE DURKIN: Okay. And you are --  
10 you have retired, correct, from the United States  
11 Attorney's office?

12          MR. SCULLY: Right.

13          REPRESENTATIVE DURKIN: How many trials did  
14 you -- were you involved in as a prosecutor? That you  
15 sat in the room, sat in a chair and tried the case.

16          MR. SCULLY: Probably close to 20. I've not  
17 really counted them.

18          REPRESENTATIVE DURKIN: Okay.

19          MR. SCULLY: Some as little as two or three  
20 days. One was three months and the other was four and  
21 a half months.

22          REPRESENTATIVE DURKIN: Perhaps just for --  
23 for our benefit, could you perhaps discuss any notable  
24 prosecutions that you were involved with?

1           MR. SCULLY: The most recently one, the one I  
2 basically retired on when the verdict came back, was  
3 what they called the Family Secrets case, involving 18  
4 murders, a racketeering conspiracy and other charges.  
5 That ended in 2007.

6           Before that, one of the more notable ones was  
7 William Hanhardt. He was the former chief of  
8 detectives. That did not go to trial. He pled guilty  
9 for his involvement and others for running a mob  
10 jewelry theft group.

11           REPRESENTATIVE DURKIN: Okay. All right.  
12 Can you explain to the committee what exactly is a  
13 wiretap?

14           MR. SCULLY: A wiretap is where one is  
15 actually listening to a telephone conversation. It's  
16 the recording and monitoring of telephone  
17 conversations under the authority of court.

18           REPRESENTATIVE DURKIN: Is there a  
19 distinction between a wiretap and a bug?

20           MR. SCULLY: A bug is basically a microphone  
21 that's placed in a location. It's not really -- it's  
22 not on the phone. It's in a location, say an office,  
23 where again it's called oral communications --  
24 interception of oral communications, and that is again

1 through a court order.

2 REPRESENTATIVE DURKIN: Could you distinguish  
3 to the members of this committee the difference  
4 between a wiretap and a bug and also versus body  
5 recordings and consensual recorded calls?

6 MR. SCULLY: Well, in a wiretap or a bug  
7 where there is no party that's part of the  
8 conversation agrees to it or even knows about it,  
9 that's one thing. That's where you need a court  
10 order.

11 When you have consensual, where one of the  
12 parties is working with the government, that person  
13 can be wearing a wire actually on his or her person,  
14 or it could say be in a briefcase that's on the table  
15 when that person is communicating with the subject of  
16 an investigation. Or again, if there's a telephone  
17 conversation, again, it's consensual because one party  
18 is cooperating with the government, that could be --  
19 that could be taped, that conversation, and that does  
20 not violate any federal law. That's authorized under  
21 federal law.

22 REPRESENTATIVE DURKIN: All right. So under  
23 the federal rules or federal law, for the body  
24 recording it's consensual. It's the one-party consent

1 rule which applies to that; correct?

2 MR. SCULL: That's correct.

3 REPRESENTATIVE DURKIN: Okay. Do you need  
4 Department of Justice and court approval for the  
5 intercepted wire oral communications?

6 MR. SCULLY: For the bug or for the wiretap  
7 or --

8 REPRESENTATIVE DURKIN: For the -- for the --  
9 I would say for the wiretap and the bug.

10 MR. SCULLY: Where there is no party --

11 REPRESENTATIVE DURKIN: Yes, correct.

12 MR. SCULLY: Where there is no consent, they  
13 don't know, you do need Department of Justice approval  
14 and court authority, a court order.

15 REPRESENTATIVE DURKIN: So this electronic  
16 surveillance which is the -- what is the Department of  
17 Justice, court authority, that is -- we were talking a  
18 little bit about Title III last week. That is what  
19 Title III is about; correct? It's the court ordered,  
20 Department of Justice reviewed type of interceptions;  
21 correct?

22 MR. SCULLY: That's what it's commonly  
23 called, Title III.

24 REPRESENTATIVE DURKIN: How many Title III --

1 Title IIIs have you been involved with either applying  
2 for one or using Title III recordings as evidence in  
3 investigation or trial?

4 MR. SCULLY: I've been personally involved  
5 with ten, ten different cases. Three of those that I  
6 was involved not being the attorney and making the  
7 application but afterwards when the case went to  
8 trial. So there was another attorney who was the lead  
9 attorney, if you would. Personally I was involved  
10 with seven. And the most recent one was involving the  
11 Family Secrets case.

12 There were two where we were working towards  
13 having a wiretap or a bug in a location. Exactly --  
14 on those two it was actually for a bug. And I  
15 determined and the agent determined we did not have  
16 enough to make application, so we did not apply. But  
17 we went as far as we could.

18 REPRESENTATIVE DURKIN: Okay. Now, we've  
19 previously put in evidence as -- I'm sorry, I forget  
20 what the exhibit number is, but it is the -- are the  
21 most current United States Attorney sections dealings  
22 with the -- their policies regarding the use of  
23 electronic surveillance. Have you looked at that a  
24 little bit earlier? You're familiar with that

1 document; correct?

2 MR. SCULLY: Yes, sir.

3 REPRESENTATIVE DURKIN: Okay. With that --

4 MR. GENSON: Excuse me, Mr. Durkin. I don't  
5 mean to interrupt.

6 CHAIRWOMAN CURRIE: Mr. Genson.

7 MR. GENSON: Yes. Sometime before I begin my  
8 clarification I'd like to have that, and we still  
9 haven't gotten a copy of it.

10 CHAIRWOMAN CURRIE: Of the --

11 MR. GENSON: Of the document that he's  
12 mentioning now, the --

13 CHAIRWOMAN CURRIE: I thought staff just  
14 brought round a copy to you.

15 MR. GENSON: I have it. Thank you.

16 REPRESENTATIVE DURKIN: All right. May I  
17 proceed, Counsel?

18 MR. GENSON: You -- you always can proceed.

19 REPRESENTATIVE DURKIN: Thank you.

20 MR. GENSON: Don't ask my permission.

21 REPRESENTATIVE DURKIN: Mr. Scully, could you  
22 explain to the ladies and gentlemen of the jury the  
23 process that you as an Assistant United States  
24 Attorney go through in order to obtain the wiretap or

1 bug? Just take us through this.

2 MR. SCULLY: Okay. It's actually fairly  
3 involved, fairly lengthy. But let me -- let me  
4 proceed to kind of lay out at least what my experience  
5 has been and my understanding of the process.

6 Typically, what you're dealing with is an  
7 Assistant U.S. Attorney working with an agent. In my  
8 case it was always an agent of the Federal Bureau of  
9 Investigation.

10 REPRESENTATIVE DURKIN: But it could be other  
11 federal agents, whether it's a Postal Inspector or  
12 Secret Service, any of them; correct?

13 MR. SCULLY: Typically, you're only going to  
14 mainly see it with DEA or FBI.

15 REPRESENTATIVE DURKIN: Okay.

16 MR. SCULLY: Because they have the manpower.

17 And what you as an Assistant U.S. Attorney and  
18 the agent are dealing with is trying to put together  
19 an affidavit to apply then ultimately to the chief  
20 judge of the district court. In my cases it was  
21 either the district court in the Northern District of  
22 Illinois or one case I had was up in Michigan at the  
23 federal prison.

24 You're doing this because all of the

1 investigative steps that you've taken so far cannot  
2 get you to the point where you have enough evidence  
3 against the individual. You have to be able to  
4 establish to the court the necessity of this fairly  
5 intrusive investigative means. So what you're doing  
6 is you're working with that agent, putting together an  
7 affidavit, and these can run -- I mean some of these  
8 are as -- that I've had are over a hundred pages long.

9       What you're trying to do then is establish  
10 probable cause that there is evidence that various  
11 federal felonies are being committed. And these are  
12 by statute. So it's not all federal felonies. There  
13 are many Assistant U.S. Attorneys that have put in 10,  
14 15, 20 years, and they've never even used the wiretap  
15 statute because they didn't need to because their  
16 investigation could resolve the case without going to  
17 that extreme. So you, one, have to establish certain  
18 crimes. Not all federal felonies are the subject of  
19 wiretap.

20       Then what you're trying to do is show -- you have  
21 to allege information not only about those crimes but  
22 that a particular location or a particular phone is  
23 being used to commit at least a portion of that crime.

24       You have to then allege facts to show probable

1 cause that certain individuals are going to be  
2 interceptees present either in that location or on the  
3 telephone.

4 And then finally, you're also laying out your  
5 knowledge as to who the violators are. Not the people  
6 who are going to be picked up with the mic or with the  
7 telephone tap, but the people that you know from your  
8 probable cause are part of this criminal -- criminal  
9 conspiracy, say. So it might be eight people that  
10 you're actually investigating but only four that are  
11 going to be in that location based upon your evidence.

12 So this is a fairly lengthy process, you're going  
13 through this, you're developing information.

14 What kind of information? And I've seen each one  
15 of these in the various affidavits and many of them  
16 have most, if not all, these, but not necessarily.

17 Most often you're going to see confidential  
18 information, the confidential informant information.  
19 These are people that provide information. You have  
20 to establish their reliability based upon specific  
21 information, their background. You're laying out  
22 specific information that they're providing about the  
23 individuals, if they know about the location, about  
24 the crime, but these are people that cannot typically

1 go into that location or would not be on the phone  
2 conducting the kind of conversations that show the  
3 evidence of a crime.

4 Cooperating witnesses. So the beginning of the  
5 affidavit might say confidential informant number 1  
6 through 3. Cooperating witnesses are different.  
7 These are people, -- they may be called cooperating  
8 witness 1, cooperating witness 2. These are people  
9 that might ultimately be willing to testify, but at  
10 this point do not want to be identified in a written  
11 document. So the government knows who they are, but  
12 their name is not being put in the affidavit. They're  
13 also being described as their kind of information and  
14 where it's coming from.

15 REPRESENTATIVE DURKIN: So the affidavit is a  
16 pretty lengthy document at times?

17 MR. SCULLY: Yes.

18 REPRESENTATIVE DURKIN: Now, after you feel  
19 the affidavit is complete, could you describe the  
20 application process that follows that?

21 MR. SCULLY: If I could just mention a couple  
22 of other things.

23 REPRESENTATIVE DURKIN: Sure.

24 MR. SCULLY: There's often names of

1 witnesses, people whose names are actually being used.  
2 If there's an undercover agent, at time that happens,  
3 the undercover agent's information is provided. At  
4 times cooperating witnesses or individuals who are  
5 named or undercover agents who have been willing to  
6 wear a consensual mic for conversations or a telephone  
7 conversation they would tape, physical surveillances  
8 are laid out, photographs, if any were taken, are also  
9 included. A thing called a pen register where you're  
10 taking a look at someone's activity on a telephone  
11 where it is a -- you're not listening but you're  
12 paying attention to who they're calling and then  
13 subpoena documents. So all of these could be in an  
14 affidavit. And you put all this together and you get  
15 to the point you feel -- you and the agent feel  
16 there's probable cause.

17 REPRESENTATIVE DURKIN: Okay. And there's an  
18 application that you have to fill out that the  
19 affidavit's attached to. That's the next stage in the  
20 process?

21 MR. SCULLY: That's correct. The Assistant  
22 U.S. Attorney puts together the application --  
23 proposed application, proposed orders, along with the  
24 affidavit.

1           Okay. What the agent does with the affidavit,  
2 the FBI agent, his or her supervisor may or may not  
3 review it, but for sure what happens then is it goes  
4 to the local FBI attorney. They have two -- in  
5 Chicago they have two or three on staff. And then  
6 they then review it for all the requirements. Then,  
7 again from the FBI standpoint, once it passes that  
8 hurdle for probable cause, et cetera, it then goes to  
9 the FBI headquarters where their legal staff takes a  
10 look at it, again to make sure it complies with all  
11 the statutes and that there's enough facts alleged for  
12 probable cause.

13           Then from the FBI headquarters, it goes to the  
14 Office of Enforcement Operation -- OEO they call it --  
15 at the Criminal Department -- Criminal Division.

16           REPRESENTATIVE DURKIN: Is that called the  
17 Electronic Surveillance Unit of the Office of  
18 Enforcement Operations?

19           MR. SCULLY: Yes.

20           REPRESENTATIVE DURKIN: Of the Criminal  
21 Division of the Department of Justice.

22           MR. SCULLY: Correct.

23           REPRESENTATIVE DURKIN: That's after the FBI  
24 has done their vetting, whatever you want to say, and

1 they feel it's ready to go forward. So it goes over  
2 to the DOJ in the Electronic Surveillance Unit. What  
3 happens at that point?

4 MR. SCULLY: Okay. Even before that, as  
5 that's happening -- it's going on a dual track -- the  
6 affidavit -- proposed affidavit and application and  
7 orders are then -- from the Assistant U.S. Attorney is  
8 going to his or her supervising Assistant U.S.  
9 Attorney. Often, the next level in the U.S.  
10 Attorney's office is brought in, First Assistant, head  
11 of the Criminal Division, maybe even the U.S.  
12 Attorney, to discuss the matter.

13 It then moves out of the U.S. Attorney's office  
14 in Chicago, goes to the Office of Enforcement  
15 Operation, the Electronic Surveillance Unit.

16 And in the case where I was involved, because I  
17 was in the Organized Crime Section, it went also to  
18 the Organized Crime Section in Washington.

19 And then from there, once it goes to that  
20 attorney, then you're working with the attorney in the  
21 Office of Enforcement Operation. They're just trying  
22 to establish that there in fact is probable cause.  
23 They're there also to determine that the information,  
24 even if there's probable cause, to make sure that it's

1 not stale, that it's relatively current. They're also  
2 making the determination in their mind, and they see  
3 -- you know, they'll see hundreds of these over the  
4 course of a year on an individual, that there is a  
5 necessity to use these fairly drastic means to obtain  
6 the authority. And so they're going through a  
7 checklist that we had gone through to make sure that  
8 there is probable cause and this need.

9 From that, in essence, line attorney at OEO, it  
10 goes to the head of OEO. The man's name was Fred  
11 Hess. I'm not sure if he's still there.

12 And then from him, he's reviewed it, and then it  
13 goes up to a Deputy Assistant -- Deputy Assistant  
14 Attorney General in the Criminal Division. And that  
15 person again sees hundreds of these probably over the  
16 course of a year or two.

17 REPRESENTATIVE DURKIN: At what point is it  
18 sent over to a federal judge for review? Who's the  
19 last person in DOJ who's going to have reviewed that  
20 application?

21 MR. SCULLY: It's the Deputy Assistant  
22 Attorney General.

23 REPRESENTATIVE DURKIN: Right now you've  
24 given us -- how many layers within the department have

1 we talked about before it even gets out of the hands  
2 of the Department of Justice and before the court?

3 MR. SCULLY: Within the U.S. Attorney's  
4 office you could -- it's the line assistant, often you  
5 have another assistant working it, supervising  
6 attorney, maybe one or two in the front office.  
7 I mean right there you could have three or four. OEO,  
8 five, line person at OEO five. Hess number six, and  
9 the Deputy Assistant Attorney General, seven. And  
10 you've got the affidavit going through the FBI.

11 REPRESENTATIVE DURKIN: Once you've received  
12 approval from the Department of Justice, do you have a  
13 certain amount of time to present this before a  
14 federal court?

15 MR. SCULLY: Generally, you're doing it  
16 within a day or so. I mean if you get it a Friday  
17 afternoon at 5:30, you're going to wait until Monday  
18 morning because the judge probably isn't there at that  
19 point.

20 REPRESENTATIVE DURKIN: Explain why this is  
21 time sensitive.

22 MR. SCULLY: Well, because you have to make  
23 sure that the information is still current. If you  
24 waited three or four weeks after you got the

1 authority, now you're beyond the point where it's --  
2 the information would be stale. The phone could no  
3 longer be used; the people are no longer meeting in  
4 the room.

5 REPRESENTATIVE DURKIN: Can any federal judge  
6 or is there one judge in particular, and let's in your  
7 experience in the Northern District of Illinois, that  
8 you present the application and affidavit to for a  
9 Title III applicant or a Title III order?

10 MR. SCULLY: It's the -- it's always the  
11 chief judge of the district. Now, if the chief judge  
12 is on vacation, it might be the acting chief judge,  
13 but it's always the person that's -- in my experience,  
14 most of the times the chief judge is there. And at  
15 this point in time it's Judge James Holderman, who  
16 himself had been an Assistant U.S. Attorney. I think  
17 he was head of the Criminal Division back in the late  
18 '70s.

19 REPRESENTATIVE DURKIN: All right. So Judge  
20 Holderman, just use him as an example, receives the  
21 application for the Title III. Explain what happens  
22 with him.

23 MR. SCULLY: Well, at least my practice was,  
24 with him as it's -- as the affidavit had been approved

1 at the level of the attorney within the Electronic  
2 Surveillance Unit, so it's now gone up to -- it's  
3 going up to the next level, I would give him a draft  
4 affidavit, order -- orders and application. Then if  
5 anything changed, say if up the chain they say there's  
6 not enough information on this particular individual,  
7 you can't put him in as a violator, or if there's more  
8 information to make the affidavit more current, we  
9 would add that and tell the judge what changes we  
10 would make -- we had made, and then provide him with  
11 the affidavit and application that myself and the  
12 agent were prepared to testify to or to -- not testify  
13 to, but take an oath on.

14 REPRESENTATIVE DURKIN: All right. How long  
15 does it usually take for a judge to review this  
16 information? Is it quick or they -- tell me what your  
17 experience is.

18 MR. SCULLY: Typical experience, he was given  
19 the draft a day or two ahead of time, and we would be  
20 several hours with the final and having made -- having  
21 told him or his Clerk what changes had been made as it  
22 had gone up the -- gone up the chain past the OEO line  
23 attorney.

24 REPRESENTATIVE DURKIN: And can you tell me

1 what standard that the -- you must establish to get  
2 authority from the federal judge to proceed with  
3 the --

4 MR. SCULLY: Well, it's a statutory standard.  
5 It's all covered by federal statute. But you have to  
6 establish probable cause, kind of what I indicated  
7 earlier, that particular individuals are committing a  
8 particular crime, that are -- it's covered by federal  
9 statute, that at least some of them are going to be  
10 intercepted at this location or at the -- on the  
11 telephone, and that you have to establish there are  
12 really no other means that would -- you're going to be  
13 able to use to accomplish that evidentiary evidence --  
14 or, that evidence without this drastic means.

15 REPRESENTATIVE DURKIN: Okay. Now, let me  
16 just ask you, is this a rubber-stamp process that it  
17 goes through when you make this application, when it  
18 starts at the beginning till the time it gets to the  
19 district court?

20 MR. SCULLY: No. It's analyzed all the way  
21 along. When you're dealing with the people at OEO, I  
22 mean it gets down to take out -- you know, add a comma  
23 here, you know, take out a word there; your  
24 information is a little bit stale; we need some

1 indication that they're still using the location; see  
2 if they're -- you can have a surveillance to show us  
3 that they're still going in there. They have to have  
4 that information.

5 REPRESENTATIVE DURKIN: Have you ever  
6 presented a Title III application to Judge Holderman?

7 MR. SCULLY: Judge Holderman himself was an  
8 Assistant. He's --

9 REPRESENTATIVE DURKIN: Have you ever -- let  
10 me ask you this: Have you appeared before Judge  
11 Holderman seeking Title III authority before?

12 MR. SCULLY: Several times.

13 REPRESENTATIVE DURKIN: Does he rubber-stamp?

14 MR. SCULLY: No.

15 REPRESENTATIVE DURKIN: All right. Let me  
16 ask just a few more questions.

17 Once the order is signed, can you describe what  
18 the agents and the Assistant United States Attorneys  
19 must do, what are they required to do?

20 MR. SCULLY: Let me kind of describe the  
21 order first if I could. It's to the government, it's  
22 to the agents, and they're told what they can and  
23 can't do.

24 So initially, if we're talking about a bug going

1 into an office or into some location, the judge gives  
2 authority for what they call surreptitious entry to go  
3 install the bug. And then he then says I want to know  
4 when this is done. He gives them -- he gives you  
5 authority for 30 days in which to monitor.

6 What monitoring means is you're listening. But  
7 you can only listen when you tape-record. You cannot  
8 listen and not tape-record. You cannot tape-record  
9 and not listen.

10 The judge also in his order says you have to  
11 report to me every ten days about the status of your  
12 investigation. And then says, okay, as to  
13 non-pertinent conversations, conversations not dealing  
14 with what I'm authorizing you to listen to, I want you  
15 to -- what they call minimize -- turn it off.

16 So let's say it's a phone and one of the kids of  
17 the target is making a call to a friend and it's  
18 clearly not criminal, then it has to be minimized,  
19 because that's not an interceptee, it's not a person  
20 that's named in the order, it's not a crime that's  
21 named in the order.

22 REPRESENTATIVE DURKIN: So every order has a  
23 30-day period in which you have to accomplish whatever  
24 goals you're seeking to accomplish in the affidavit?

1 MR. SCULLY: That's correct.

2 REPRESENTATIVE DURKIN: In the application.  
3 30 days lapses, what happens after 30 days and you  
4 still are not there, you don't feel you have enough  
5 information yet to meet your needs, what happens?

6 MR. SCULLY: Well, then what happens, you're  
7 going through the whole process again. So maybe --

8 REPRESENTATIVE DURKIN: So you're not just  
9 going right back to the district --

10 MR. SCULLY: No.

11 REPRESENTATIVE DURKIN: -- the chief judge  
12 and just saying I need another 30 days.

13 MR. SCULLY: No.

14 REPRESENTATIVE DURKIN: You start the process  
15 over again right at the bottom level within the U.S.  
16 Attorney's office and also within the FBI you start it  
17 all over again; correct?

18 MR. SCULLY: If you don't feel you have  
19 enough, then what you're going to do is maybe 15 days  
20 into it, the first interceptions, you're starting the  
21 affidavit process again. Maybe you've now learned  
22 that they're discussing other crimes, so you'd be  
23 adding those. Maybe now you have another person  
24 that's been intercepted that you didn't know about

1 this person, he or she is now added as a proposed  
2 interceptee. You're going through the whole process  
3 back to D.C., all the way up to the Deputy Assistant  
4 Attorney General.

5 REPRESENTATIVE DURKIN: Okay. Once you feel  
6 that you're finished, you've got enough information as  
7 you need, what happens after that?

8 MR. SCULLY: At that point you are basically  
9 asking the judge -- well, every 30 days you're asking  
10 the judge authority to seal the -- what they call  
11 logs.

12 If I could just take a minute and explain those.  
13 When the FBI agents, in my case, when they're  
14 listening, they are writing out a log or typing out a  
15 log of the conversations that they're obtaining,  
16 summarizing them. They're also laying out what  
17 minimization they've done and summaries of the  
18 pertinent conversations. And if they come across  
19 crimes that weren't listed, they're also advising the  
20 judge of that.

21 Okay. The logs, the tape recordings are then  
22 sealed at the end of the 30 days.

23 Once you get to the point -- you've extended and  
24 you've gotten to the point where the court and you and

1 Washington feels there is not -- it's now time to  
2 quit, you don't apply any more, and then what you ask  
3 the court is to seal that final group. And within 90  
4 days you're going to then come up with they call  
5 service of inventory. Now, you can extend that with  
6 court authority, but at some point you're going to  
7 have to tell the individuals who were named as  
8 interceptees, the violators, the people who weren't  
9 intercepted but were found to be -- that were named as  
10 probably being involved with this type of crime and  
11 anyone else who was picked up in criminal  
12 conversation, those people are going to be notified  
13 under order of court as to the existence of this.

14 REPRESENTATIVE DURKIN: So in this whole  
15 process there's considerable oversight and a number of  
16 hoops that must be jumped through to get this  
17 information. And there is considerable oversight by  
18 the chief judge as well; correct?

19 MR. SCULLY: That's correct.

20 REPRESENTATIVE DURKIN: All right.

21 Mr. Scully, is there anything that we missed that you  
22 think would be relevant for this committee?

23 MR. SCULLY: I think that's most of it.

24 REPRESENTATIVE DURKIN: Okay. Well, I

1 appreciate your testimony and spending time with us.

2 CHAIRWOMAN CURRIE: Thank you very much.

3 I just have one quick question, and that is, have  
4 you ever -- when you were a member of the staff of the  
5 United States Attorney's office, did you ever get  
6 requests for a tap or a bug rejected?

7 MR. SCULLY: I personally rejected two, but  
8 basically nothing -- I didn't want anything ever  
9 leaving my hands that I did not believe met all the  
10 requirements of the statute. It's an awful lot of  
11 effort to go down to ultimately lose whatever evidence  
12 you could obtain. So you're making sure it's correct,  
13 and people above you are making sure it's correct, as  
14 well as people above the agent.

15 CHAIRWOMAN CURRIE: Thank you very much.

16 Just the Clerk should please add to the roll call  
17 Representatives Bassi, Howard, and Tracy.

18 And Representative Fritchey.

19 REPRESENTATIVE FRITCHEY: Well, let me see if  
20 I can just clarify this, Mr. Scully, without being  
21 redundant here.

22 On more than one occasion you had sent something  
23 back down for further review because you didn't think  
24 it met the qualifications; correct?

1           MR. SCULLY: Oh, on most -- on many of these.  
2 You know, when you're first starting, you're dealing  
3 with the agent to say, okay, we need -- I believe here  
4 there's not enough. We need to -- we might need to do  
5 some surveillances, do you have some confidential  
6 informant that says the following. So it's an  
7 evolving process.

8           REPRESENTATIVE FRITCHEY: In a clear  
9 majority, by the time they get to the approval  
10 process, via Judge Holderman or whoever it may be,  
11 obviously, a clear majority of those -- let me not say  
12 obviously -- a clear majority of those at those point  
13 -- at that point are approved; is that correct?

14          MR. SCULLY: Once it goes all the way through  
15 the Department of Justice, well, obviously, then it is  
16 approved.

17          REPRESENTATIVE FRITCHEY: No, no, I'm not  
18 saying all -- they're ultimately -- they're ultimately  
19 authorized by the judge?

20          MR. SCULLY: Yes. Because we're --

21          REPRESENTATIVE FRITCHEY: And the reason that  
22 they are -- would it be safe to say that the reason  
23 that they are so more often than not authorized by the  
24 judge is because of the vetting process they've gone

1 through up unto that point; correct?

2 MR. SCULLY: Yes, that they've complied with  
3 the statutes.

4 REPRESENTATIVE FRITCHEY: Now, it's not  
5 uncommon, though, that notwithstanding, that  
6 oftentimes in a criminal proceeding the admissibility  
7 of tapes will be challenged by defense counsel;  
8 correct?

9 MR. SCULLY: Yes. I had one case with  
10 Mr. Genson where he challenged it.

11 REPRESENTATIVE FRITCHEY: And what happened  
12 in that case?

13 MR. SCULLY: We won.

14 REPRESENTATIVE FRITCHEY: Okay. How often is  
15 it that you see the admissibility be denied at the  
16 trial level for a previously authorized intercept?

17 MR. SCULLY: In the 25 years I was in the  
18 office, I did not personally see it.

19 REPRESENTATIVE FRITCHEY: That's what I  
20 wanted. Thank you.

21 CHAIRWOMAN CURRIE: Thank you very much for  
22 your testimony.

23 Mr. Genson, do you have a comment?

24 MR. GENSON: Mr. Scully, they asked you to

1 identify -- we've known each other for --

2 CHAIRWOMAN CURRIE: Would you speak into the  
3 microphone, please, sir?

4 MR. GENSON: We've known each other for what,  
5 about 25 years?

6 MR. SCULLY: Ever since I came into the  
7 office.

8 MR. GENSON: And so we know that the  
9 balancing isn't exactly -- you did win that wiretap,  
10 but I did win a case against you; didn't I?

11 MR. SCULLY: Well, it was my first case. And  
12 I wasn't involved in the investigation.

13 MR. GENSON: I see. Just to show the  
14 balance.

15 The point is, as defense lawyers -- and you've  
16 been involved and are aware of other cases where I've  
17 had Title III cases, is that correct, other than  
18 yours?

19 MR. SCULLY: You'd have to refresh my  
20 recollection.

21 MR. GENSON: All right. Well, let's just go  
22 back a second. One of the things I'd like to point  
23 out is that in addition to your -- in addition to your  
24 experience, Mr. Scully, you have won, have you not,

1 awards, national awards for your prosecutorial  
2 ability; is that right?

3 MR. SCULLY: Yes.

4 MR. GENSON: United States Department of  
5 Justice awards, including the John Marshall Award in  
6 Washington, D.C.; is that right?

7 MR. SCULLY: Yes.

8 MR. GENSON: You received that on October 28,  
9 2005?

10 MR. SCULLY: No, 2008.

11 MR. GENSON: I will say it because you'll --  
12 you're too modest to say it, but you have been the top  
13 federal prosecutor for -- except for that first case,  
14 about almost all -- almost the whole time you were  
15 there.

16 MR. SCULLY: Well, thank you. But that was,  
17 if you recollect, Shorty LaMantia was the main  
18 defendant and that's the guy who pled several years  
19 later.

20 MR. GENSON: But Caruso was the other  
21 defendant and he was found not guilty.

22 In any event, Mr. Scully, you have been involved  
23 in ten of these cases; is that right, sir? Three of  
24 them -- three of them with other lawyers and seven by

1 yourself? That is Title III cases.

2 MR. SCULLY: Title III cases. But again,  
3 several of those were like extensions and spin-offs.

4 MR. GENSON: And with regard to Title III  
5 cases, Title III is a specific statute that  
6 statutorily makes up the rules and has the rules as to  
7 when you can get -- when you can get this wiretap; is  
8 that right?

9 MR. SCULLY: That's correct.

10 MR. GENSON: And prior to -- prior to that,  
11 the Supreme Court in Berger said that you needed  
12 specific rules in order to get a wiretap; is that  
13 correct?

14 MR. SCULLY: That's my understanding, yes.

15 MR. GENSON: Now, Title III has a number of  
16 requirements; is that right?

17 MR. SCULLY: Yes.

18 MR. GENSON: And the requirements that Title  
19 III has have to be followed. These are pretty strict  
20 requirements; is that right?

21 MR. SCULLY: Yes.

22 MR. GENSON: Probable cause has to be  
23 established; is that right?

24 MR. SCULLY: Yes.

1           MR. GENSON: There may be Fourth Amendment  
2 challenges, I mean challenges to probable cause based  
3 on the reliability of the informants, whether in fact  
4 they're telling the truth, staleness; is that right?

5           MR. SCULLY: Correct.

6           MR. GENSON: Staleness means, for the panel,  
7 that the information is too old; is that right?

8           MR. SCULLY: Correct.

9           MR. GENSON: Credibility of informants is  
10 whether in fact the informants that are providing the  
11 information are in fact legally credible; is that  
12 right?

13          MR. SCULLY: That's correct.

14          MR. GENSON: And there -- there is a method  
15 -- really, they call them the Franks motion, where  
16 someone might test -- might test the truth of some of  
17 the things in the affidavit; is that correct?

18          MR. SCULLY: That's possible.

19          MR. GENSON: Now, wiretapping is not allowed  
20 for any offense. It has to be for a specific offense;  
21 is that correct, sir?

22          MR. SCULLY: There are a number of them, but  
23 that's correct. It's not all federal felonies.

24          MR. GENSON: And the target, the

1 interceptees, they have -- as you said, they have to  
2 be named; is that right?

3 MR. SCULLY: Yes.

4 MR. GENSON: And if there are any prior  
5 wiretaps, that has to be included; is that correct?

6 MR. SCULLY: That's correct.

7 MR. GENSON: You talked about minimization.  
8 That is whether in fact the people that are taking or  
9 taping the different -- the different phones or rooms  
10 or whatever, they cannot just record anything. They  
11 have to record only things that are relevant; is that  
12 right?

13 MR. SCULLY: They can listen for a period of  
14 time, determine if there is going to be that type of  
15 conversation. After a period of time, if they've  
16 determined that there's not -- we're talking about the  
17 named interceptees.

18 MR. GENSON: Right. They have to shut it  
19 off.

20 MR. SCULLY: Then they have to shut it off.  
21 So if they're talking about the Bears are playing  
22 Green Bay tonight, well, that's not criminal, so at  
23 some point they should turn it off. But then they can  
24 go visit the conversation again to see if it's turned

1 to criminal conversation.

2 MR. GENSON: And they can and they have to  
3 determine that traditional law enforcement techniques  
4 have been tried and failed; is that right?

5 MR. SCULLY: That's correct. That's one of  
6 the things in the affidavit and in the application and  
7 has to be established to the chief judge.

8 MR. GENSON: And if any of the -- in addition  
9 to that, the tapes must be immediately sealed so that  
10 we know they haven't been tampered with; is that  
11 right?

12 MR. SCULLY: That's correct.

13 MR. GENSON: And failure to seal the tapes in  
14 a proper fashion may result in suppression of those  
15 tapes; is that correct?

16 MR. SCULLY: At least as to those tapes there  
17 may be any problem with. So let's say you had three  
18 different 30-day periods. The first two were sealed  
19 within the proper amount of time, but the third 30  
20 days worth of material was delayed. Maybe that last  
21 group might be delayed -- might be suppressed.

22 MR. GENSON: I understand. Now, the only way  
23 to determine, or at least for an aggrieved party,  
24 whether the wiretapping comports to Title III is to

1 review the application, supporting affidavits,  
2 relevant court orders, the tapes themselves, and all  
3 the other relevant materials, the ten-day report, the  
4 line sheets, transcripts or summaries.

5 MR. SCULLY: Exactly. That's -- and that's  
6 -- it's all typically provided in discovery to the  
7 defense attorney upon indictment sometime within the  
8 first probably three weeks.

9 MR. GENSON: And so those things are provided  
10 to the attorney and the attorney has the obligation  
11 and responsibility to determine whether those things  
12 that are provided them allows them to try to suppress  
13 those tapes; is that correct?

14 MR. SCULLY: At that point in time they'd be  
15 in a position to take any attempt that they thought  
16 was possible.

17 MR. GENSON: And it's clear that in this  
18 particular case you have had no contact with the  
19 application; is that correct? In this case?

20 MR. SCULLY: I've never seen that, no.

21 MR. GENSON: You were not responsible for the  
22 investigation in this case.

23 MR. SCULLY: No.

24 MR. GENSON: You did not draw up the Title

1     I I I application.

2             MR. SCULLY:    No.

3             MR. GENSON:    Didn't review the application.

4             MR. SCULLY:    No.

5             MR. GENSON:    Never read the application.

6             MR. SCULLY:    No.

7             MR. GENSON:    Never determined whether in your  
8 estimation that there was probable cause to have this  
9 wiretap.

10            MR. SCULLY:    No.

11            MR. GENSON:    Now, these are findings that are  
12 reached before the tapping begins; is that correct?

13            MR. SCULLY:    Could you explain that?

14            MR. GENSON:    Well, the probable cause and the  
15 applications that are made following those  
16 applications, you listen -- you start your listening;  
17 is that correct?

18            Let me go back. The applications, if it's a  
19 first application, does not recite or cannot recite  
20 what's on that tape because they haven't been recorded  
21 yet; is that correct?

22            MR. SCULLY:    Right.

23            MR. GENSON:    And the -- we -- do you know  
24 whether or not the defense has been given the

1 affidavits and any of this information?

2 MR. SCULLY: In this case?

3 MR. GENSON: Yeah. With no indictment yet.

4 MR. SCULLY: I have no idea.

5 REPRESENTATIVE DURKIN: Objection. I mean he  
6 already said he has no knowledge of it. And I  
7 would --

8 MR. GENSON: He has no knowledge of --

9 REPRESENTATIVE DURKIN: We can move away from  
10 this case. He already said he had no knowledge of the  
11 affidavits or anything that was used in this case.

12 MR. GENSON: And so I asked whether he had  
13 any knowledge whether any of those things have been  
14 given to me. I wanted to know if he knew.

15 REPRESENTATIVE DURKIN: How is that relevant?  
16 Is that clarification?

17 MR. GENSON: It would have been easier to say  
18 yes or him to say no. It would have been easier to do  
19 that than to have to go through all this, Mr. Durkin.

20 But in any event. But in any event. You are  
21 familiar, are you not, with Title III; is that  
22 correct?

23 MR. SCULLY: Yes.

24 MR. GENSON: And you're familiar with Title

1 III 2515, which says that: "Whenever any wire or oral  
2 communication has been intercepted, no part of the  
3 contents of such communication and no evidence derived  
4 therefrom may be received in evidence in any trial,  
5 hearing, or other proceeding in or before any  
6 court, grand jury, department, officer, agency,  
7 regulatory body, legislative committee, or other  
8 authority of the United States, a state, or a  
9 political subdivision thereof if the disclosure of  
10 that information would be in violation of Title III."

11 You're familiar with that; are you not?

12 CHAIRWOMAN CURRIE: Yeah, but I thought we  
13 talked about this earlier, Mr. Genson, and I thought  
14 that the precedent clause was if it were illegally  
15 obtained. Is that not accurate? And I'm also not  
16 quite sure what the --

17 MR. GENSON: I actually -- I actually read  
18 that. And so I want to go on -- I actually read --

19 CHAIRWOMAN CURRIE: Although, he is here not  
20 to -- not to talk about what's going on in the case  
21 involving your defendant about which he has no  
22 knowledge. He is explaining from his own experience  
23 how these requests are handled by the U.S. Attorney's  
24 office, the Department of Justice, and the chief judge

1 of any individual federal court.

2 MR. GENSON: Most of --

3 CHAIRWOMAN CURRIE: So if you could make your  
4 comments relevant to his experience, I think that  
5 would be helpful.

6 MR. GENSON: Well, most respectfully, I think  
7 it's entirely relevant to talk about the use of those  
8 wiretaps. He's talked about how they're obtained. He  
9 certainly can talk about how they cannot be misused.

10 CHAIRWOMAN CURRIE: I certainly agree that  
11 they should not be misused and we all agree with that.  
12 But is there anything --

13 MR. GENSON: I asked -- my questioning as an  
14 offer of proof would be, so, Your Honor, so that you  
15 know, that I'm asking whether in fact there's  
16 prohibition against the use as evidence of intercepted  
17 wire or oral communications. I'll ask him if he's  
18 aware of under Gelbard -- and I'll furnish that to the  
19 panel -- that when they make -- when they make a  
20 determination as to whether in fact say someone can go  
21 or not go in front of the grand jury, they have to  
22 assume that the tape is bad, and that according to the  
23 Supreme Court Justice Brennan, they have to make that  
24 assumption. And I would ask him to read, if he could,

1 footnote 9 and 10, of that Gelbard case, the United  
2 States Supreme Court case, which in fact does state  
3 that they cannot be summarized, that people can be  
4 named, and all of these things which are under  
5 Gelbard, and that would be the end of my examination  
6 of this august witness.

7 And if Your Honor -- and if Your Honor -- I keep  
8 on saying that and I'm sorry. Chairman, Madam  
9 Chairman, what I'm saying is I am going to at this  
10 point ask to submit the Gelbard opinion to the panel  
11 so they can read it before my argument. I'm going to  
12 at this point ask to point out footnote 9 and 10 and  
13 make the suggestion and ask this gentleman, who is an  
14 august expert, about these sections. If you rule that  
15 that's irrelevant --

16 CHAIRWOMAN CURRIE: I really don't think that  
17 his response is relevant. I think the committee would  
18 be willing certainly to take what you offer us and  
19 make it an exhibit. But I don't think that  
20 Mr. Scully's expertise means that the question that  
21 you want to address to him is relevant to this  
22 inquiry.

23 MR. GENSON: I'm --

24 CHAIRWOMAN CURRIE: Clarification is one

1 thing, but I think we're moving down a very different  
2 line.

3 MR. GENSON: I will stipulate --

4 CHAIRWOMAN CURRIE: We'll happily take your  
5 information and we'll call it Exhibit 18.

6 MR. GENSON: All right. And I would suggest  
7 to Madam Chairman that the qualifications of this  
8 witness are of the highest, and if I would have asked  
9 those questions, there would be no doubt that he'd  
10 know the proper answer. I have no question about the  
11 expertise of this witness.

12 I do have one or two -- one or two little other  
13 questions.

14 There has -- you talked about the number of times  
15 that the intercepts are requested against the time  
16 that they're authorized. You talked about that, how  
17 they go to Washington and they're intercepted. The  
18 Title 18 -- or, Title 18 has a specific section  
19 relating to reports concerning intercepted wire, oral,  
20 or other electronic communications and the reporting  
21 requirements; does it?

22 MR. SCULLY: Are you speaking to the  
23 reporting to the court on the ten-day report?

24 MR. GENSON: Reporting to the court and

1 Congress.

2 MR. SCULLY: And I was going to say there's a  
3 congressional requirement.

4 MR. GENSON: Right. Are you aware of the  
5 statistics that are submitted?

6 MR. SCULLY: Not currently, no.

7 MR. GENSON: Again I will offer as an  
8 additional exhibit the statistics of authorized  
9 intercepts granted pursuant to 18 US 29 from 1995 to  
10 2005. They are the latest -- they are the latest  
11 statistics available, which stated that there were  
12 15,041 applied to and only six rejected. I think I --  
13 I have that here. I could --

14 CHAIRWOMAN CURRIE: We would happily accept  
15 that.

16 MR. GENSON: I will submit that as --

17 CHAIRWOMAN CURRIE: Thank you.

18 MR. GENSON: I have no further questions.

19 Thank you.

20 CHAIRWOMAN CURRIE: Thank you very much,  
21 Mr. Scully.

22 Thank you, Mr. Genson.

23 We'll move on to the next event, which is going  
24 to be testimony from Matt Brown and Ed Bedore. Matt

1 is the executive director and Matt is the chair of the  
2 legislature's Procurement Policy Board.

3 Gentlemen, if you would raise your right hands.

4 (Mr. Brown and Mr. Bedore were duly  
5 sworn.)

6 CHAIRWOMAN CURRIE: Thank you much very much.

7 MR. GENSON: Can I have a minute before we  
8 start to get my papers together, please? Just a  
9 minute.

10 CHAIRWOMAN CURRIE: Yes. We'll give a moment  
11 to Mr. Genson to get his papers together.

12 There's a handout which we have just received  
13 that will now be distributed and, of course, the pages  
14 will make sure that Mr. Genson and his team get a copy  
15 of it as well.

16 CHAIRWOMAN CURRIE: Papers together?

17 MR. GENSON: Yeah.

18 CHAIRWOMAN CURRIE: All right now.

19 MR. GENSON: I need a minute or two to read  
20 this. Just a minute or two.

21 CHAIRWOMAN CURRIE: I thought you were ready.

22 MR. GENSON: I'm ready.

23 He keeps on shutting it off.

24 CHAIRWOMAN CURRIE: I'm sorry. I

1 misunderstood. We've not seen this, either.

2 MR. GENSON: Okay.

3 CHAIRWOMAN CURRIE: But you could listen and  
4 then you can catch up with the reading later, since I  
5 suspect they're going to pretty much tell us what's in  
6 their written --

7 MR. GENSON: I have nothing better to do this  
8 evening. I'll go through the whole thing.

9 CHAIRWOMAN CURRIE: You'll what?

10 MR. GENSON: I'll go through the whole thing  
11 this evening.

12 CHAIRWOMAN CURRIE: Okay. Great. So if you  
13 want to start. I'm not sure which is up first.

14 MR. BROWN: Thank you, Madam Chairman.

15 My name is Matt Brown. I'm the executive  
16 director of the State Procurement Policy Board. I'd  
17 like to give just a brief outline of who the  
18 Procurement Policy Board is.

19 CHAIRWOMAN CURRIE: Could you speak directly  
20 into the mic?

21 MR. BROWN: Is that better? Thank you.

22 The board has the authority and responsibility to  
23 review, comment upon and recommend, consistent with  
24 the Procurement Code, rules and practices governing

1 the procurement, management, control, and disposal of  
2 supplies, services, professional and artist services,  
3 construction and real property and capital improvement  
4 leases procured by the state. Specifically, the board  
5 has the responsibility to review certain lease  
6 renewals and proposed contracts.

7 The board is comprised of five members, one each  
8 by the legislative leaders and one by the Governor.  
9 The Governor's appointee serves the chair of the  
10 board. The 2008 board members are: Terrance Healy -  
11 chairman, Mike Bass, Ed Bedore, Ricardo Morales, and  
12 Carmen Triche-Colvin. Appointees to the board receive  
13 no compensation for their duties as board members.

14 As we were requested to appear before this  
15 committee, we were given some particular criteria for  
16 which this committee would like discussion. I have  
17 prepared some statements about each of those points  
18 and I'll refer back to that request on each statement.

19 One of the conditions that the board was  
20 interested -- excuse me, the committee was interested  
21 in hearing about was data comparing certain behavior  
22 of the Blagojevich administration and previous  
23 administrations.

24 What I'd like to say is that in July of 2004, the

1 Procurement Policy Board received statutory authority  
2 allowing the board a 30-day opportunity to look at  
3 every contract issued under the Procurement Code. The  
4 General Assembly legislated this authority to the  
5 board due to the lack of transparency and cooperation  
6 offered by state agencies.

7       Reviews began on January 1, 2005. The board  
8 quickly realized that sole source procurements were  
9 occurring at a higher than expected frequency. The  
10 board determined that more accountability in sole  
11 sourcing was warranted and adopted by resolution sole  
12 source justification requirements for all agencies to  
13 submit with contract awards. The board requested --  
14 requests additional information or justification on  
15 hundreds of awards every year. There are several  
16 instances where awards have been cancelled during our  
17 inquiry.

18       The board did not have these same concerns with  
19 prior administrations. Prior to this administration  
20 the board was often involved in significant  
21 procurements while in development and received status  
22 reports frequently during the course of the board's  
23 monthly meetings.

24       A second subject specifically interested to this

1 committee is holdover leases. A holdover is generally  
2 considered a month-to-month leasing environment  
3 occurring when all contracts and options related to  
4 tenancy are fully executed; satisfied or expired. Only  
5 basic tenant rights exist for the occupant. Small  
6 periods of holdover should exist generally to finalize  
7 terms or authorizations before establishing new  
8 leasehold. The ultimate goal of lease procurement is  
9 to provide the highest level of accountability from  
10 the lessor while getting the highest level of  
11 performance from occupying a facility.

12 Specifically, being in holdover equates to  
13 lessors not making necessary repairs, agencies not  
14 being allowed to modify occupancy to maintain a  
15 program's function, the state losing any leverage it  
16 has to negotiate staying in that facility, and even  
17 creating short notice evictions of the state as a  
18 tenant. The state frequently receives eviction  
19 notices. This puts additional pressure on leased  
20 facilities and makes it very difficult to establish  
21 terms that are in the best interest of the state.

22 Prior to this administration the PPB did not have  
23 great interest in holdovers because the bulk of leases  
24 were renewed or terminated before the existing lease

1 expired. At the end of fiscal year 2003, as lease  
2 expirations were counted, the number of holdover  
3 leases rose to 93. This drew the board's attention.  
4 In November 2005, 172 leases were identified as having  
5 fallen into holdover. In August 2008, 164 leases were  
6 identified as being in holdover. The August 2008  
7 itemization of leases showed more than 50 leases held  
8 over for five years or more and ten of those leases  
9 being between seven and eleven years in holdover.

10 Beginning FY09, the State Comptroller's office  
11 identified three holdover leases for which it would no  
12 longer pay rent because those leases began to exceed  
13 the maximum ten-year duration allowable for any state  
14 contract issued under the Procurement Code. The  
15 Comptroller identified several more that would be  
16 subject to this action in coming months.

17 This holdover growth occurred as a result of this  
18 administration refusing to engage in leasing activity  
19 until February of 2007.

20 A third point of concern for this committee,  
21 operational rules and space standards for leasing.  
22 Policy and procedure regarding space standards has  
23 been directly in question by this board since October  
24 of 2003. It has been the subject of 26 separate board

1 meetings. The board was told repeatedly that  
2 implementation of Executive Order 2003-10, essentially  
3 consolidating all real estate functions into CMS for  
4 both decision-making and administration, would require  
5 operational rules to modernize accordingly. Some  
6 operational rules were amended with the enactment of  
7 the Procurement Code in 1998, but most date to 1984.  
8 Other than rules governing demonstrations and displays  
9 on state property, no updates have occurred.

10 In January of 2007, the board asked specifically  
11 for rules revisions that specifically identify what  
12 improvements to leased facilities are temporary in  
13 nature versus permanent in nature. Without clear  
14 policy in this area, it is impossible to prevent  
15 lessors' efforts to create permanent improvements to  
16 their facilities with state dollars that are  
17 established for occupancy requirements met through  
18 temporary improvements. The PPB fights this on a  
19 case-by-case basis to prevent that from happening. No  
20 such rules have been proposed.

21 In February of 2007, CMS enumerated to the board  
22 that an average of 300 square feet per person was the  
23 metric. However, most leases proposed since then show  
24 the ratio to be at least 30 percent and recently as

1 high as 70 percent above that target. CMS has still  
2 not formalized the methodology to account for space  
3 utilization.

4 A subject relating to procurement behavior in  
5 this administration versus prior administrations  
6 referred to as the rate card. In December of 2005,  
7 rules were proposed to prequalify information  
8 technology vendors at an established bench rate and  
9 then select among them from a pool after all the  
10 contractors prequalified for the award. The  
11 Procurement Policy Board objected to this on several  
12 points. First, the rate comparison was not  
13 competitively derived. Second, it created an  
14 environment where contractors were evaluated after the  
15 procurement process with little objectivity. And  
16 lastly, it was proposed under emergency conditions  
17 reserved for public health, safety, and welfare. No  
18 such emergency existed. The Joint Committee on  
19 Administrative Rules even asked that the emergency  
20 rules be rescinded for lack of conformity to emergency  
21 standards. After months of review on how to  
22 accomplish this as a master contract with the  
23 appropriate standard of objectivity, equivalency, and  
24 accountability, a rule was finally adopted but never

1 used to procure the service.

2 Piggyback contracts and cooperative purchasing.

3 Similar to the environment surrounding the rate card,  
4 CMS had developed concepts that would allow the state  
5 to enjoin contracts known to exist with municipalities  
6 or other local jurisdictions and also allow the state  
7 to cooperate on new procurements with other state and  
8 local jurisdictions or private consortium procurement  
9 groups. The board objected to these measurements not  
10 as poor procurement concepts but for lacking the  
11 entirety of what exists in the Procurement Code to  
12 protect the state's dollars and assign accountability  
13 to what we are buying.

14 And lastly, a specific subject of interest to  
15 this committee was a contract with Accenture. In  
16 January 2005, the Procurement Policy Board began  
17 exploring the consequences to competitive procurement  
18 occurring when domestic companies that have  
19 expatriated to tax haven countries participate in the  
20 bidding process. These are companies that essentially  
21 don't pay taxes domestically based on their offshore  
22 incorporation. An award to one such company,  
23 Accenture, had recently occurred and was also the  
24 subject of inquiry by the State Comptroller. This

1 subject received attention from the United States  
2 General Accounting Office six months earlier.  
3 Generally speaking, this is a very complicated federal  
4 tax issue, but it was concluded that dramatic shifts  
5 to zero tax liability would allow corporations to bid  
6 lower than taxpaying corporations.

7 In May of 2005, the State Comptroller officially  
8 requested that a policy be developed by the PPB to  
9 prohibit expatriated corporations from bidding on  
10 state contracts. The Comptroller also asked the board  
11 to recommend that the contract be voided. The board  
12 did not vote any recommendation on voiding the  
13 contracts. The board did, however, participate in  
14 creation of legislation to prohibit expatriated  
15 corporations from bidding on state contracts. That  
16 legislation, House Bill 4194, did not pass in the 93rd  
17 General Assembly. The Comptroller initially refused  
18 payment on this transaction. The board is not aware  
19 of the Comptroller's actions from that point forward.

20 That concludes my testimony on the specific  
21 subjects of inquiry. I know Member Bedore has some  
22 additional information about transactions.

23 CHAIRWOMAN CURRIE: Thank you, Mr. Brown.

24 Mr. Bedore.

1           MR. BEDORE: Good afternoon. I'm Ed Bedore  
2 and I'm a member of the Procurement Policy Board since  
3 its inception in 1998. I'd like to give you a few  
4 examples of leases that the board has many concerns  
5 about. One, parking leases; two, temporary  
6 improvement and the interest payments; three, a lease  
7 at West Fulton in Chicago; and four, a lease in  
8 Harvey, Illinois.

9           The board -- I will talk about the parking. The  
10 board is seeing a very large increase in parking  
11 spaces being paid for by the state in Chicago around  
12 the Thompson Center. We went up to over 500 parking  
13 spaces in a very short period of time with the new  
14 administration. The result was that the board said,  
15 wait, there has to be some standards, who should get  
16 this free parking and what should their level of their  
17 position and everything else. With the results that  
18 CMS finally went out and contracted -- went out with a  
19 bid and we have now reduced the number of parking  
20 spaces by 215 spaces.

21           We all know what the Thompson Center is. We know  
22 where it's located. We know that it has an el  
23 station, a subway, Randolph Street, Clark Street,  
24 LaSalle Street, Lake Street. There's no need for

1 every employee to get a free parking space.

2 The result was a \$500,000 annual savings to the  
3 State of Illinois.

4 Second was the Department of Corrections. This  
5 administration recommended that the state pay 10  
6 percent to amortize the improvements at the Western  
7 Avenue facility in Chicago. Now, I'm on the record of  
8 saying that I thought this was loansharking. At the  
9 meeting where we objected to this 10 percent being  
10 charged to the State of Illinois the administration  
11 went out and contacted the owner and before our  
12 meeting was over the rate was reduced to 7.5 percent.  
13 That is a savings of \$175,000.

14 Number three. As you have heard, CMS has  
15 recommended 300 square feet per employee and that  
16 should be the standard for state office space.  
17 Outside in the real world it's 250 square feet. But I  
18 realize state offices require more space and the board  
19 recognizes that. You must have larger lobbies; you  
20 have to have interview rooms; you have to have play  
21 rooms for children in DCFS. So we've approved leases  
22 of 400 square feet per employee.

23 So CMS and this administration went out for a bid  
24 on a piece of property on West Fulton in Chicago.

1 They went out on a bid for 32,000 square feet, which  
2 would come out to be 432 square feet per employee.  
3 The lessor, the owner, said if you want to be in my  
4 building, you must take the entire building, 39,000  
5 square feet. Which means each state employee in that  
6 building has 527 square feet per employee. Obviously,  
7 far beyond the 300 feet recommended by the same  
8 administration. And if we would have gone along with  
9 this, giving this higher square footage, that would  
10 cost to the people -- this would be a cost to the  
11 people of the State of Illinois of \$1.9 million over  
12 the life of this lease. And if we were to reduce this  
13 lease down to 400 square feet per employee, the  
14 savings would be \$2.6 million. The board recommended  
15 that CMS either cancel this lease or bring them  
16 another state agency to fill up the space and cancel  
17 their lease and bring them in. Because we're talking  
18 about here \$2.6 million.

19 CMS, realizing that the board was not going to  
20 approve this, said we will come back to you in January  
21 and February, and we'll try to figure this out.

22 Number four. There is one lease I would like to  
23 describe to this committee, but first I would like to  
24 give you some background.

1           A few months ago we approved a DHS lease at 41st  
2 and Wallace, that's in Chicago, for \$11.95 a square  
3 foot. At our November meeting we approved a lease at  
4 119th and Halsted, which is in Chicago, Illinois,  
5 which is a few miles north of Harvey, Illinois. And  
6 that lease was \$9.02 a square foot.

7           Now, that brings us to the lease in Harvey.  
8 Harvey, Illinois. The original lease had some  
9 build-out to suit DCFS. That build-out added \$7.76  
10 per square foot, for a total of \$19.48 per square  
11 feet. That makes the lease in Harvey at \$11.72 per  
12 square feet. What did this administration do? They  
13 sent us a new lease which term went beyond the  
14 expiration of the build-out. So the rate should have  
15 been \$11.72. It's the 19.48 less the 7.76. But they  
16 submitted this lease at \$19.48.

17           The board would not approve this lease in May.  
18 CMS said that they would come back to us in June. We  
19 are still waiting.

20           If we would have approved this lease as requested  
21 by this administration, we, the people of the State of  
22 Illinois, would have paid an additional \$2,672,544  
23 more.

24           On this lease and its owners, there's been many

1 stories and many articles in the Chicago Tribune.  
2 We've heard about the Governor's \$25,000 club. But  
3 the owner of this facility is not a member of the  
4 \$25,000 club. They are members of the \$50,000 club.

5 I've given you a few examples of this  
6 administration's actions that have cost or would have  
7 costs to the people of the State of Illinois  
8 approximately \$6 million in additional costs. And to  
9 quote an attorney by the name of Mr. Sam Adams, Jr.,  
10 "If the people of Illinois suffer, the Governor will  
11 step aside."

12 The people of Illinois --

13 MR. GENSON: This is inappropriate. This  
14 whole topic is inappropriate and this gentleman's  
15 statements are inappropriate.

16 CHAIRWOMAN CURRIE: I think that that was a  
17 bit over the top, Mr. Bedore.

18 MR. BEDORE: Okay. I will conclude by saying  
19 just the few leases in the last few months would have  
20 cost the people of the State of Illinois, if we had  
21 approved them, over \$6 million. That does not even go  
22 back many -- a few years back and add up all the  
23 additional costs that have been changed after the  
24 Procurement Board recommended that the rates were too

1 high or the space was too much.

2 Thank you.

3 CHAIRWOMAN CURRIE: Thank you very much.

4 We're grateful for your testimony and we're grateful  
5 that you're keeping an eye on the store, as it were.

6 Representative Lang.

7 REPRESENTATIVE LANG: Thank you, Madam  
8 Chairman.

9 And welcome, gentlemen.

10 I think you would probably understand when I say  
11 to you that --

12 REPRESENTATIVE: Is his mic on?

13 REPRESENTATIVE LANG: I'll get a little  
14 closer.

15 I think you would probably understand when I  
16 suggest to you that we have to differentiate between  
17 what might be called gross incompetence and something  
18 else. And so I want to take you back through some of  
19 your testimony to try to uncover whether this is  
20 simply gross incompetence, for which I'm not sure  
21 there is a remedy from this panel, or to determine  
22 whether it's something else.

23 Let me ask you first to describe in greater  
24 detail what the Procurement Policy Board does.

1           MR. BROWN: Thank you, Representative Lang.  
2           The Procurement Policy Board is charged with  
3 examination of most state contracts. The limits on  
4 those state contracts are only contracts occurring  
5 outside the Procurement Code. Anything that goes  
6 through a formal competitive selection process, which  
7 is designed to be objective and competitive, requires  
8 vetting in our office upon award of those contracts,  
9 be it contracts for supplies, services, or leases.

10           REPRESENTATIVE LANG: Now, I see that the  
11 board is composed of five members, one from each  
12 legislative leader and one appointed by the Governor;  
13 is that correct?

14           MR. BROWN: Yes, it is.

15           REPRESENTATIVE LANG: And the person  
16 appointed by the Governor is the chairman; is that  
17 correct?

18           MR. BROWN: Yes.

19           REPRESENTATIVE LANG: Have we had the same  
20 chairman throughout the entire six years of the  
21 Blagojevich administration?

22           MR. BROWN: We have not.

23           REPRESENTATIVE LANG: All right. So today's  
24 chairman is a Terrance Healy?

1 MR. BROWN: Yes, sir.

2 REPRESENTATIVE LANG: And who else has served  
3 as chairman?

4 MR. BROWN: Prior to Mr. Healy's appointment  
5 was an interim chairman, Mr. Tom Langfeld. He served  
6 on the board for approximately eight months.

7 REPRESENTATIVE LANG: All right. So these  
8 are the only two chairmen during the six years of the  
9 Blagojevich administration?

10 MR. BROWN: That's correct.

11 REPRESENTATIVE LANG: All right. So since --  
12 I don't want anyone to think that this question is  
13 because I'm accusing anybody. It's just simply a  
14 question.

15 Have you noted any difference in the voting  
16 patterns of the people who have served as chairmen on  
17 this committee as compared to the other members?

18 MR. BROWN: No.

19 REPRESENTATIVE LANG: And so the leases that  
20 you've explained that the Procurement Policy Board had  
21 rejected were rejected by the Governor's appointees as  
22 well?

23 MR. BROWN: In the rejections that the  
24 Procurement Policy Board moves forward on, if you'll

1 permit, it occurs formally through a board objection.  
2 We perform this function very seldom. The agency  
3 typically does not want to face down an objection  
4 because that will stop the transaction entirely. As  
5 our questions ensue, the agencies have a hundred  
6 percent track record of withdrawing and not facing  
7 down that vote.

8 REPRESENTATIVE LANG: And so there aren't  
9 actual votes; is that correct?

10 MR. BROWN: No votes to object. The -- I'll  
11 term it protest. The protest of the Procurement  
12 Policy Board has always resulted in the agencies  
13 withdrawing to seek new terms that are favorable to  
14 the state's interest.

15 REPRESENTATIVE LANG: Would it be your  
16 testimony that this administration has attempted to  
17 sidestep the Procurement Policy Board or ignore it?

18 MR. BROWN: Yes.

19 REPRESENTATIVE LANG: And would it be your  
20 testimony that the examples you brought here today are  
21 examples of that sidestepping or ignoring of the  
22 board?

23 MR. BROWN: Yes.

24 REPRESENTATIVE LANG: Can you give us some

1 idea -- how long have you been with the Procurement  
2 Policy Board?

3 MR. BROWN: I've been responsible for board  
4 operations for ten years, since 1998 at the board's  
5 inception.

6 REPRESENTATIVE LANG: All right. So you  
7 began around the time George Ryan became Governor; is  
8 that correct?

9 MR. BROWN: Yes.

10 REPRESENTATIVE LANG: And what's your  
11 experience -- what was your experience with the Ryan  
12 administration relative to these same sorts of issues?

13 MR. BROWN: We were participating in a  
14 firsthand nature with the chief procurement officers,  
15 as well as state procurement officers throughout the  
16 administration, frequently having conference calls,  
17 face-to-face meetings, and transfer of information  
18 through draft documents in advance of procurements.

19 REPRESENTATIVE LANG: And this is not taking  
20 place in the last six years?

21 MR. BROWN: Correct. If it has, it has been  
22 very minimal.

23 REPRESENTATIVE LANG: And has your office  
24 requested of the Governor's office that they do things

1 in a different manner relative to your board?

2 MR. BROWN: We've requested from the chief  
3 procurement officers that modifications be made.

4 REPRESENTATIVE LANG: Is that on an  
5 individual basis or a general -- a general method of  
6 working with you?

7 MR. BROWN: Those are general statements. We  
8 apply that to all chief procurement officers rather  
9 than try to drive that in one particular direction, so  
10 that as we move forward everyone continues to operate  
11 on the same basis.

12 REPRESENTATIVE LANG: Were those requests  
13 made in writing?

14 MR. BROWN: Yes.

15 REPRESENTATIVE LANG: May we have copies of  
16 those letters?

17 MR. BROWN: We will provide the documentation  
18 that represents that, yes.

19 REPRESENTATIVE LANG: And are there responses  
20 in writing to those letters?

21 MR. BROWN: In some instances. Other  
22 instances are verbal in context of our board meetings.

23 REPRESENTATIVE LANG: Were there -- what  
24 would -- would there be a general tenor to the

1 responses, whether they've been in writing or whether  
2 they were orally at a board meeting? Were they  
3 accepting of your proposals or rejecting of your  
4 proposals generally?

5 MR. BROWN: Generally, the proposals were  
6 accepting, but it's the lack of results that have  
7 caused us to continue down this path.

8 REPRESENTATIVE LANG: And so I understood,  
9 I'm not sure which of you, to say in your remarks that  
10 while they adopted rules to satisfy the concerns of  
11 the board, they went ahead and they did some of this  
12 procurement outside of their own rules. Would that be  
13 correct?

14 MR. BROWN: Actually, Representative, we have  
15 requested rules. It is within the board's statutory  
16 authority to request chief procurement officers to  
17 effect rules. And in fact, specific to leasing, those  
18 rules have not come forward.

19 REPRESENTATIVE LANG: And when would those  
20 rules have been requested?

21 MR. BROWN: At least -- I can say that it's  
22 been the subject of 26 separate board meetings. I can  
23 further drill down and find out when we have exactly  
24 said put these to paper in your rules. That would be

1 a reduced number.

2 REPRESENTATIVE LANG: If it is not too  
3 difficult, I would like to see the -- and the  
4 committee would, I'm sure, also like to see the board  
5 minutes where those were requested.

6 MR. BROWN: And you do have in your packet of  
7 documents there excepts from minutes that we've used  
8 to compile this. The full minutes are obviously more  
9 lengthy, and, if necessary, we'd be happy to provide  
10 them.

11 REPRESENTATIVE LANG: And how far back do  
12 those requests go? Do they go back to the beginning  
13 of the Blagojevich administration?

14 MR. BROWN: 2003.

15 REPRESENTATIVE LANG: All right. Now, just  
16 some specific questions.

17 First, do you have a specific contact in the  
18 administration regarding your issues on the board,  
19 whether it be the rules or the specific leases or  
20 other efforts of procurement?

21 MR. BROWN: We would deal with a number of  
22 individuals. An expanded number throughout CMS and  
23 the administration could come to nearly a hundred. We  
24 could narrow that to probably ten individuals in a

1 supervisory capacity that have the decision-making  
2 authority.

3 REPRESENTATIVE LANG: Could you provide those  
4 names to us?

5 MR. BROWN: Yes.

6 REPRESENTATIVE LANG: Now, what would be the  
7 general title of those people?

8 MR. BROWN: Director, deputy director, bureau  
9 chief.

10 REPRESENTATIVE LANG: Of the various state  
11 agencies.

12 MR. BROWN: Yes.

13 REPRESENTATIVE LANG: Do you ever have  
14 occasion to deal with anybody in the Governor's office  
15 directly?

16 MR. BROWN: No.

17 REPRESENTATIVE LANG: And was there ever a  
18 reason given by any of these folks, these bureau  
19 chiefs, directors, and deputy directors, as to why  
20 they may not have complied with direct requests of the  
21 board?

22 MR. BROWN: The general response is the  
23 matter of lack of resources, lack of personnel, and  
24 the incredibly large backlog of documents that we have

1 asked them to correct.

2 REPRESENTATIVE LANG: And in your view, those  
3 are not sufficient answers, I would take it.

4 MR. BROWN: That's correct.

5 REPRESENTATIVE LANG: Relative to your  
6 comments in your notes that -- and I'll read it  
7 quickly. "The board determined that more  
8 accountability in sole sourcing was warranted and  
9 adopted by resolution sole source justification  
10 requirements for all agencies to submit with contract  
11 awards."

12 What was the response to that request?

13 MR. BROWN: The response was generally of  
14 concern about the length of time it might take to  
15 accumulate that amount of information to justify the  
16 sole source awards. We worked through a process to  
17 develop an appropriate template so that their  
18 responses would be uniform as it was implemented.  
19 Approximately three months later, the board's  
20 resolution was effective and all transactions were  
21 accompanied by that justification.

22 REPRESENTATIVE LANG: So they eventually  
23 complied with that request.

24 MR. BROWN: Yes.

1           REPRESENTATIVE LANG: Referring to the other  
2 document which I have here that's called one of two.  
3 It talks about parking leases, 100 North Western, 2650  
4 West Fulton, and the property in Harvey. Can you give  
5 the committee of names of the owners of these  
6 properties?

7           MR. BROWN: I can. I have that information  
8 available with me but not readily at hand.

9           REPRESENTATIVE LANG: We would certainly like  
10 to have that information. It is certainly critical to  
11 the work of this committee, particularly since --

12           I'm now going to direct my comment to Mr. Bedore.  
13 Mr. Bedore, you indicated relative to the Harvey  
14 property, which you thought was incredibly overpriced,  
15 that the owner of the building was not a member of the  
16 \$25,000 club, he was a member of the \$50,000 club.  
17 Who would that owner be, sir?

18           MR. BEDORE: The owner is the Cacciatore  
19 family.

20           REPRESENTATIVE LANG: And are any of these  
21 other leases that are on this handout, are they owned  
22 by the same party?

23           MR. BEDORE: No.

24           REPRESENTATIVE LANG: Or are these all

1 different parties?

2 MR. BEDORE: Different parties.

3 REPRESENTATIVE LANG: Does that particular  
4 family have other leases with the State of Illinois?

5 MR. BEDORE: Oh, I'd have to check. I don't  
6 have that information in front of me.

7 REPRESENTATIVE LANG: Would it be possible  
8 for you to determine for us if it does?

9 MR. BEDORE: Yes.

10 REPRESENTATIVE LANG: Thank you.

11 Relative to the Harvey lease, you had indicated  
12 that CMS was going to get back to you in June relative  
13 to your concerns about the proposed lease. Obviously,  
14 they haven't been back. Did anyone from your board  
15 reach out to CMS to say where are you guys, what's  
16 going on with this lease?

17 MR. BEDORE: We've done it every month. They  
18 are listed on the agenda every month.

19 REPRESENTATIVE LANG: Is that a formal letter  
20 gone to them or is that not the policy of the board?  
21 How does that work?

22 MR. BEDORE: Well, there's a notice that's  
23 put out notifying of the upcoming meeting, which  
24 they're invited to, and they get a copy of our minutes

1 and a copy of the agenda. And on there is listed the  
2 Harvey lease.

3 REPRESENTATIVE LANG: Among other things.

4 MR. BEDORE: Among other things.

5 REPRESENTATIVE LANG: And so they would show  
6 up at your meetings regularly and talk about all the  
7 other things but continue to skip over this particular  
8 lease; is that fair to say?

9 MR. BEDORE: Yes. They have not responded.

10 Matt is correcting and saying that it's been on  
11 the agenda I think three times since June.

12 REPRESENTATIVE LANG: And they've never given  
13 you any response as to why --

14 MR. BEDORE: No. In fact, I verbally have  
15 asked -- one of the problems we've had here with this  
16 particular lease, the person from CMS that was  
17 handling this and handling all the other leases had  
18 made a statement at our meeting in May that there  
19 seemed to be a problem here, that they may have put in  
20 -- you know, this rate may be a little high. That  
21 person has now been transferred and is not handling  
22 leases anymore.

23 REPRESENTATIVE LANG: Just one or two more  
24 questions, Madam Chairman.

1           Relative to the parking leases, you indicate  
2 there are 66 separate parking leases. I assume these  
3 are not all owned by one party; would that be correct?

4           MR. BEDORE: That's correct.

5           REPRESENTATIVE LANG: Is it possible for us  
6 to get a list of all the owners of those parking  
7 leases?

8           MR. BEDORE: Yes.

9           REPRESENTATIVE LANG: And finally,  
10 Mr. Bedore, you indicated as to that one lease again  
11 that that one owner was part of the \$50,000 club.  
12 What about some of these owners of these other  
13 examples that you brought here today, are they members  
14 of the 25 or \$50,000 club?

15           MR. BEDORE: I'd have to get back to you on  
16 that. There has been occasions -- it's our normal  
17 policy to look at the Secretary of State's listing to  
18 see who represents these people or if they have  
19 contributed. It's just as a matter of background.

20           REPRESENTATIVE LANG: Well, so now you've  
21 raised an interesting point. So when you get a lease  
22 or other procurement request by the administration,  
23 it's your standard practice to check the owners of  
24 those properties against donation lists?

1           MR. BEDORE: Most of the time. I believe you  
2 do that, right, Matt?

3           MR. BROWN: Not with 100 percent regularity.  
4 Depending on the nature of the lease and the desire of  
5 individual board members into the relative ownership.  
6 Procurement -- Procurement Code requires that a  
7 disclosure be accompanied -- that a disclosure  
8 accompany each lease as to the ownership of the  
9 building. And oftentimes it's challenging because the  
10 lease can be held in land trusts, blind trusts,  
11 corporate entities, and very seldom are we able to  
12 access information to find out who owns those  
13 buildings without doing research.

14           REPRESENTATIVE LANG: But do you do the  
15 research?

16           MR. BROWN: Yes.

17           REPRESENTATIVE LANG: And do you have any  
18 documentation -- I certainly don't expect that it's  
19 with you. Is there any documentation as to these  
20 cross-references where -- I assume there are thousands  
21 of procurements over the last several years. Is there  
22 a record of the owners as compared to campaign  
23 donations?

24           MR. BROWN: No. We do not retain that type

1 of information.

2 REPRESENTATIVE LANG: So you pull that  
3 information together, but then it's discarded?

4 MR. BROWN: That's correct.

5 REPRESENTATIVE LANG: And what is the policy  
6 behind doing that?

7 MR. BROWN: The interest of staff in  
8 examining -- again, examining these records is  
9 relative to requests of individual board members,  
10 obtaining information about ownership, and identifying  
11 those owners against their corporate registries or  
12 trusts and so on. We don't make that a part of our  
13 official record, as it has a staff level introduction,  
14 bring that forward in our formal concerns of the  
15 board. Those are secondary.

16 REPRESENTATIVE LANG: Having said that,  
17 though, there are quite a few where you somehow  
18 retained the information, and Mr. Bedore has indicated  
19 that in some cases you have that information; is that  
20 correct?

21 MR. BROWN: Known -- it's known information  
22 but not retained. It's not something we make part of  
23 the file.

24 REPRESENTATIVE LANG: So we would request

1 that where you have the information, however you have  
2 it, whether it's known in someone's head or known on a  
3 piece of paper, that that be supplied to this  
4 committee at the earliest possible time.

5 I thank you gentlemen very much.

6 Thank you, Madam Chairman.

7 CHAIRWOMAN CURRIE: Thank you.

8 I'm surprised -- the Chair just wishes to note  
9 she's surprised that after that very thorough  
10 discussion, the many, many questions that Mr. Lang has  
11 asked, there are actually five members of the  
12 committee who have more questions to ask. So the  
13 Chair would just remind the members of the committee  
14 that brevity is good. Brevity is very good and  
15 redundancy is not.

16 And with that, Representative Bellock.

17 MR. GENSON: Madam Chairman.

18 CHAIRWOMAN CURRIE: Mr. Genson.

19 MR. GENSON: In the event that there are  
20 other documents that are submitted, I assume I would  
21 get -- I would get access to those.

22 CHAIRWOMAN CURRIE: You will.

23 Representative Bellock.

24 REPRESENTATIVE BELLOCK: Thank you very much,

1 Madam Chairman.

2 Mr. Brown, I just -- I'm over here. I just  
3 wanted to ask a question. You made a statement  
4 regarding emergency rule and JCAR.

5 MR. BROWN: Yes.

6 REPRESENTATIVE BELLOCK: Could you clarify  
7 that statement?

8 MR. BROWN: The Procurement Policy Board and  
9 the Joint Committee on Administrative Rules have a  
10 relationship regarding procurement rules. We are one  
11 of, if not the only, agency that has a secondary  
12 jurisdiction over a particular set of rules. So not  
13 only do procurement rules have to be vetted by JCAR,  
14 they also have to be vetted by our board. We work  
15 with one another on that function. It's JCAR's call  
16 in this instance that the -- that the qualifications  
17 for being an emergency rule were not sufficient.

18 REPRESENTATIVE BELLOCK: Okay. I was  
19 wondering if this was one of -- the other day we had  
20 testimony from Ms. Thomas from JCAR about 33 going  
21 around the rules of JCAR. I wondered if this was one  
22 of them that you were --

23 MR. BROWN: I don't believe that that's  
24 related.

1           REPRESENTATIVE BELLOCK:    Okay.

2           CHAIRWOMAN CURRIE:    Representative Eddy.

3           REPRESENTATIVE EDDY:    Thank you, Madam Chair.

4           My question has to do with the modifications that  
5 you mentioned in response to one of Representative  
6 Lang's questions.  If I'm correct, you mentioned there  
7 were multiple times when you requested modifications  
8 from -- would it be agency directors or folks in  
9 charge of requesting procurements?

10           MR. BROWN:    When we're able to request  
11 modifications, we would address those to state  
12 purchasing officers who have the authority within each  
13 agency to make such a change, as well as driven  
14 downward from the chief procurement officer, which in  
15 most cases is CMS, and that chief procurement officer  
16 has the authority to drive those down into the  
17 agencies.

18           REPRESENTATIVE EDDY:    So can you give us a  
19 few examples of the types of modifications that were  
20 requested?

21           MR. BROWN:    Yes, I can.  The most common type  
22 of request is a rebid.  We have essentially asked on  
23 numerous occasions that because of what we perceive to  
24 be a lack of objectivity, possible lack of

1 instructions to the evaluators who issue the award,  
2 lack of criteria telling the vendor how they can best  
3 provide an award, as we identify any of those pieces  
4 of a transaction, the further and further degree we  
5 walk away from accountability, objectivity, and  
6 clarification to all the participants, we find  
7 ourselves recommending that it's no longer a valid  
8 procurement. We want them to redo it, modify it, add  
9 the relevant information that makes it accountable,  
10 objective and equivalent.

11 REPRESENTATIVE EDDY: So what basically  
12 happened in those cases is they ignored your requests  
13 for modification and simply walked away from the  
14 procurement?

15 MR. BROWN: No. We do not see that occur.  
16 We have a very high percentage of having them respond  
17 to us favorably. The situation exists, though, that  
18 we're doing this after the fact. We come in at the  
19 time of award. They've made their decisions. It's  
20 our responsibility to check those decisions, and we  
21 find them so far out of line, we ask them to back them  
22 up and start over.

23 REPRESENTATIVE EDDY: Were there, and if  
24 there are, if you could provide us with some of the

1 modifications that in your estimation were irregular  
2 to the point that you really questioned whether there  
3 was something more to the process being evaded  
4 purposely.

5 And also, this -- there's one highly publicized  
6 case regarding a move from Springfield to Harrisburg  
7 for IDOT. Do you have any specific information  
8 regarding that lease or procurement process?

9 MR. BROWN: Yes, we do. We testified in the  
10 COGFA hearing on that subject. One thing that I can  
11 tell you about that is the Procurement Policy Board is  
12 particularly exempt from that process. The purchase  
13 of real estate is one of ten express exemptions from  
14 the Procurement Code. While we were able to opine on  
15 how we were able to perform in a procurement  
16 environment, we clearly had no jurisdiction in that  
17 transaction.

18 REPRESENTATIVE EDDY: Can you summarize your  
19 findings regarding that?

20 MR. BROWN: Yes. There were -- there were  
21 two particular points of relevance. Actually, one  
22 procedural point and then two points to the  
23 transaction itself.

24 Procedurally what we had recommended to COGFA is

1 that in our history and as exemplified in Executive  
2 Order 10-2003 -- or, excuse me, 2003-10 giving CMS  
3 authority over all facilities in the State of  
4 Illinois, that that authority was then abdicated to  
5 the Department of Transportation. We had not known  
6 that that was even being considered, nor asked that  
7 that change in administration was occurring.

8 And then specific to the transaction, there was  
9 an appraisal done on the property designated for  
10 purchase, but it was a single appraisal. In all  
11 documents -- excuse me. In all transactions that the  
12 board is party to, if a purchase option is included,  
13 it requires three appraisals and reconciliation of all  
14 three to determine the market value of the facility.

15 And lastly, the appraisal was conducted by an  
16 out-of-state firm who used comps for arriving at value  
17 for I think a number of -- maybe six or seven  
18 comparative properties located in the state of  
19 Kentucky.

20 REPRESENTATIVE EDDY: Thank you, Mr. Brown.

21 CHAIRWOMAN CURRIE: Representative Fritchey.

22 REPRESENTATIVE FRITCHEY: Thank you.

23 Let me just focus in on one issue that caught my  
24 attention. That's with respect to a policy being

1 formal or informal that you initiated to check certain  
2 leases against contractors or lobbyists, et cetera;  
3 correct?

4 MR. BROWN: Yes, correct.

5 REPRESENTATIVE FRITCHEY: When did that  
6 start?

7 MR. BROWN: I can't identify a particular  
8 date. That has always been something available to us  
9 since the State Board of Elections has maintained  
10 their database. Again, it was not and has never been  
11 made a formal policy of the board. It was done upon  
12 specific requests of board members and in order to  
13 identify ownership relationships and representative  
14 relationships when we're dealing with interested  
15 parties.

16 REPRESENTATIVE FRITCHEY: That information up  
17 till now hasn't been required to be disclosed on  
18 prospective leases; correct?

19 MR. BROWN: It has not.

20 REPRESENTATIVE FRITCHEY: Were you making  
21 those checks routinely prior to 2002?

22 MR. BROWN: No.

23 REPRESENTATIVE FRITCHEY: Did you make them  
24 at all prior to 2002?

1           MR. BROWN: I can -- I can -- I believe the  
2 answer is yes, but I can't -- again, I can't account  
3 for any individual requests that we've done because we  
4 don't retain those documents.

5           REPRESENTATIVE FRITCHEY: Do you have  
6 specific knowledge as to why any board members would  
7 request to see if there were contribution links  
8 between respective lessors?

9           MR. BROWN: No.

10          REPRESENTATIVE FRITCHEY: All right.

11          CHAIRWOMAN CURRIE: Are you done?

12          REPRESENTATIVE FRITCHEY: I'm done. Thank  
13 you, Chairman.

14          CHAIRWOMAN CURRIE: Representative Bassi.

15          REPRESENTATIVE BASSI: Thank you, Madam  
16 Chairman.

17          Mr. Brown, who appointed you?

18          MR. BROWN: I'm appointed by the five board  
19 members.

20          REPRESENTATIVE BASSI: By the five board  
21 members. Okay. And who do you answer to?

22          MR. BROWN: Those five board members.

23          REPRESENTATIVE BASSI: So it would take all  
24 five of them to get rid of you?

1           MR. BROWN: You know, I'm not certain. I  
2 would assume that a majority of the board, three of  
3 five, would be the required vote.

4           REPRESENTATIVE BASSI: The required number.  
5 Which is probably why you're still here then?

6           MR. BROWN: I think so.

7           REPRESENTATIVE BASSI: Thank you very much.

8           CHAIRWOMAN CURRIE: Representative Davis.

9           REPRESENTATIVE DAVIS: Thank you, Madam  
10 Chairman.

11          Mr. Bedore, you stated that you had been with the  
12 Procurement Board for how long?

13          MR. BEDORE: Since its inception in 1998.

14          REPRESENTATIVE DAVIS: In 1998. So how would  
15 you characterize your relationship with other  
16 administrations as compared with this administration?

17          MR. BEDORE: Well, I came on towards the end  
18 of Governor Edgar's administration and then the George  
19 Ryan administration and now the Blagojevich  
20 administration. And as we have seen on these reports  
21 we have given you about holdovers on leases, when we  
22 were under the George Ryan administration, the leases  
23 were coming up, sure, there may have been some that  
24 were six months old or a year old, but they were on a

1 normal routine of being approved or being cancelled.  
2 At the time the chairman of that was Mr. Steve Schnorf  
3 was our chairman of the Procurement Board. So he was  
4 on top of things and things moved along fairly  
5 smoothly. And I'd have to say that the spirit of  
6 cooperation, sure, there were some times we questioned  
7 things that, you know, didn't sit well with the  
8 administration, but it all got worked out. I just feel  
9 -- this is my own comment, not -- not the entire  
10 board's, but certainly my comment, that this board is  
11 being ignored.

12 Giving you an example, we have a new acting  
13 director for Central Management Services. Which this  
14 board really oversees CMS. We've asked to meet with  
15 this new person. We were told, well, come to his  
16 office and he'll meet with you. Well, we have a  
17 problem with the Open Meetings Act, so we said, no,  
18 you come to our meeting. The first month nothing  
19 happened. Second month nothing happened. Third month  
20 the gentleman showed up and he got a phone call two  
21 minutes into our meeting and had to leave. And we  
22 have not heard from him since. So I mean there's --  
23 there's no -- they don't seem to be working together  
24 with us.

1           This board is not here to, you know, go after CMS  
2 but to cooperate and make things better. And we have.  
3 And they have admitted that they've changed many  
4 leases and many policies over the years after we'd  
5 call it to their attention.

6           But as you see with the Harvey lease, we're being  
7 ignored. They're just letting that go into holdover,  
8 into holdover, into holdover. And same way -- well,  
9 we'll see what happens to the Fulton. They say  
10 they're going to be back to us in January or February.  
11 We'll see. But all I can say is they promised to come  
12 back to us in June. It's almost the end of the year.  
13 We haven't heard one word.

14           REPRESENTATIVE DAVIS: Thank you very much.  
15 I appreciate your candid, honest testimony. Thank  
16 you, Mr. Bedore. Thank you, Mr. Brown.

17           CHAIRWOMAN CURRIE: Representative Black for  
18 a question.

19           REPRESENTATIVE BLACK: Thank you, Madam  
20 Chairman.

21           Mr. Brown, do you have specific knowledge of a  
22 procedure that I have heard about but never been able  
23 to get anyone to give me any documentation on, that  
24 procedure is some kind of a chargeback or a reserve?

1 For example, in my old legislative district there is a  
2 state building constructed by and paid for by the  
3 state, and I believe was paid for many years ago, that  
4 houses an Illinois Department of Transportation  
5 office. And from what members who work in that office  
6 have told me, even though the building is paid for,  
7 they have to send out of their budget a considerable  
8 amount of money to CMS for they call it rent. Do you  
9 have any specific knowledge of this process or  
10 procedure?

11 MR. BROWN: Yes, Representative. This is a  
12 process that has been disclosed to us more openly in  
13 recent months. I would say six to eight months ago.

14 Effectively, when Executive Order 2003-10 created  
15 the authority for CMS to manage virtually all of the  
16 state's real estate, it also created the facilities --  
17 if I'm not saying this properly -- the facilities  
18 revolving fund, which amassed chargebacks to the  
19 agencies to pay for CMS's administration of those  
20 facilities. Whether they are state owned or leased,  
21 if it is what has been termed a consolidated facility,  
22 then that chargeback is occurring.

23 We in our last eight months or so have been  
24 requesting that that chargeback be itemized to us. It

1 can be anywhere between 90 to \$1.10 per square foot in  
2 that facility.

3 REPRESENTATIVE BLACK: Could you make  
4 available any research you have on this procedure to  
5 members of the committee?

6 MR. BROWN: Yes.

7 REPRESENTATIVE BLACK: And one last question.

8 MR. BEDORE: Representative Black.

9 REPRESENTATIVE BLACK: Yes, sir.

10 MR. BEDORE: I would also like to comment.  
11 We had it on our agenda -- we were going to talk about  
12 it last month at our -- this month at our meeting, and  
13 with all the other that we had going on, we never got  
14 to it. Because that's a question I would like to have  
15 answered. Where does this money go? I'm just looking  
16 at this lease on Fulton that I had talked about, and  
17 it has CMS indirect costs \$.84 a square foot. Well,  
18 you times that by the 39,000 square feet, it adds up.  
19 And if you go through all the leases, that's a sizable  
20 amount. Now, my question is going to be, where does  
21 this money go? Is it at the disposal of CMS to spend  
22 as it wishes? Does it -- does it go around the budget  
23 process that's the State of Illinois? I don't know.  
24 All I know is that it's now appearing on their leases.

1 And where I first found out about it was dealing with  
2 the Harrisburg IDOT lease, and that's where I first  
3 saw it appear. And I started questioning, where does  
4 this money go? Well, nobody's given us an answer. We  
5 have not formally asked for that, but we certainly are  
6 going to in the January meeting.

7 REPRESENTATIVE BLACK: That information I  
8 think would be very helpful.

9 MR. BEDORE: Well, it's not only helpful how  
10 much it is, but what is it spent on, who has control  
11 of it, is it outside the budget process?

12 REPRESENTATIVE BLACK: Those are the  
13 questions I've asked and have not been answered.

14 CHAIRWOMAN CURRIE: I'm not actually sure  
15 that that's his question. You know, that's really a  
16 question for us, Representative. We're the ones who  
17 are supposed to be sure that the money that is coming  
18 in is being appropriately spent. Their issue is to  
19 look to see whether a lease arrangement is a sensible  
20 one from the perspective of the taxpayers.

21 Representative Black.

22 REPRESENTATIVE BLACK: Well, I understand  
23 that, Madam Chairman, but it's very difficult to track  
24 money when you're not even aware it's being charged to

1 an agency. None of this information was readily  
2 available to anyone.

3 One last question. Mr. Brown, do you have  
4 specific knowledge or is there on the Web site the  
5 owners of any property that has a current lease with  
6 the State of Illinois?

7 MR. BROWN: I understand that CMS maintains a  
8 database to that effect which should have that  
9 information in its entirety. We have a database that  
10 will contain a majority of that information. However,  
11 our database is compiled internally based on work that  
12 we process. So if there are transactions that in our  
13 history have never come to us, they will not be a part  
14 of our record.

15 REPRESENTATIVE BLACK: Thank you very much.

16 Thank you, Madam Chairman.

17 CHAIRWOMAN CURRIE: Representative Flowers.

18 REPRESENTATIVE FLOWERS: Thank you, Madam  
19 Chairman.

20 Mr. Bedore, where was the money going previously  
21 to this administration when this board was put in  
22 place in 1998?

23 MR. BEDORE: Where was this money going?

24 REPRESENTATIVE FLOWERS: Yeah. Where was the

1 CMS money going? Was it GRF or --

2 MR. BEDORE: Oh, I don't know. I don't  
3 believe it was in effect. There was no chargeback  
4 then; was there?

5 MR. BROWN: Representative, that chargeback  
6 is a result of the consolidation initiative that  
7 occurred in 2003. That chargeback began then. And  
8 again, I'm sorry if I don't have the name correctly,  
9 but it's the facilities revolving fund is what it's  
10 commonly referred to as.

11 REPRESENTATIVE FLOWERS: So when this  
12 Governor merged all the different agencies together,  
13 is this when this board was enacted?

14 MR. BROWN: No. Our board was effective from  
15 1998 on, from the enactment of the Procurement Code.  
16 Our jurisdiction to look at the things we're looking  
17 at today occurred in 2003 by act of the legislature.

18 REPRESENTATIVE FLOWERS: Okay. One other  
19 question. If you have any objections to the amount of  
20 rent that's being paid or the lease agreement, are you  
21 -- is it within your authority to try to eliminate  
22 that lease or how would you handle that?

23 MR. BROWN: What I can tell you is leases  
24 occur in different formats. The particular lease that

1 -- leases that I think you're interested in are leases  
2 that this board has direct authority to approve.  
3 Those leases are incumbent leases. They are scheduled  
4 for renewal, meaning that we are not going to be  
5 leaving as tenants. Those leases have to be of a  
6 certain size and value in order to come before this  
7 board. We do have direct authority to object to those  
8 leases. Rather than objecting to a lease and risking  
9 the nature of needing to exit that facility, we will  
10 at first protest and in response to our protest get  
11 the appropriate accommodations to rent or term or  
12 condition that are in the best interests of the state.

13 MR. BEDORE: In every case that we have  
14 objected or protested a lease the agency and CMS have  
15 pulled it out and put in -- and revised it. That has  
16 happened in every case except a couple here that were  
17 still pending.

18 REPRESENTATIVE FLOWERS: Thank you.

19 CHAIRWOMAN CURRIE: Thank you very much. We  
20 appreciate your testimony and your --

21 Oh, Mr. Genson, do you have a question for them?

22 MR. GENSON: I have a few.

23 I'm sorry, do you -- do you have a question? Go  
24 ahead. Do you have a question?

1           CHAIRWOMAN CURRIE: Representative Mautino,  
2 why don't you go first, and then we'll hear from  
3 Mr. Genson.

4           REPRESENTATIVE MAUTINO: Briefly. Most of  
5 them have been asked and answered.

6           CHAIRWOMAN CURRIE: Okay. Representative, go  
7 ahead.

8           REPRESENTATIVE MAUTINO: One is, did you have  
9 any oversight or involvement in the IPAM contract?  
10 Did you evaluate that? Did you vet that? That was  
11 discussed earlier. What would be the board's role in  
12 that contract?

13           MR. BROWN: The board was involved with the  
14 IPAM contract at its inception. It was proposed to  
15 this board that outsourcing of these real estate  
16 services occur. We were involved with -- that is one  
17 particular instance that we were involved in the  
18 solicitation to effect an award. The board  
19 participated and agreed that the solicitation was  
20 appropriate. At the time that the award occurred,  
21 however, we became concerned about the constitution of  
22 the entity that received the award and from that point  
23 forward began to question proposals that had come  
24 forward as to the quality and content and cost of the

1 service we were receiving.

2 REPRESENTATIVE MAUTINO: And under that --  
3 under that contract -- and this is the \$29 million  
4 contract which was awarded before the company was  
5 formed.

6 MR. BROWN: That is correct.

7 REPRESENTATIVE MAUTINO: Okay. And in that  
8 that was Mesirow and Frontier were the two companies  
9 originally proposing that at the time that you were  
10 looking at those contracts; correct?

11 MR. BROWN: Without having that information,  
12 I can't confirm it, but I -- I agree that the names  
13 are familiar.

14 REPRESENTATIVE MAUTINO: And New Frontier  
15 would be -- who's the proprietors, owners of New  
16 Frontier?

17 MR. BROWN: I'm not certain today, but I  
18 believe at the time it was Bill Cellini.

19 REPRESENTATIVE MAUTINO: Okay. If you would,  
20 would you include your notes, recommendation, and  
21 correspondence regarding IPAM to the committee as  
22 well?

23 MR. BROWN: Yes.

24 REPRESENTATIVE MAUTINO: Okay. Thank you.

1 CHAIRWOMAN CURRIE: Thank you very much.

2 Mr. Genson.

3 MR. GENSON: Yes.

4 Mr. Bedore, you spoke to us about the parking  
5 situation. 500 spaces were originally requested or  
6 originally contracted for; is that correct, sir?

7 MR. BEDORE: 500 and some.

8 MR. GENSON: And by virtue of your diligence  
9 and your suggestions, it was dropped to 215; is that  
10 correct?

11 MR. BEDORE: It was dropped by 215.

12 MR. GENSON: By 215. Did you ask that it be  
13 dropped any further or was that sufficient?

14 MR. BEDORE: No, we felt that that was a  
15 sufficient amount.

16 MR. GENSON: So then --

17 MR. BEDORE: We have not totally had all the  
18 response that I would like regarding who should be  
19 receiving parking spaces.

20 MR. GENSON: But the -- basically the  
21 reduction was due to your diligence, the diligence of  
22 your committee, and as a result of that there was  
23 savings to the state; is that correct?

24 MR. BEDORE: Yes. We reduced it by

1 approximately a half.

2 MR. GENSON: And that's what the Procurement  
3 Board is supposed to do, to monitor these things and  
4 make certain that the appropriate actions are taken  
5 regarding these contracts; is that correct, sir?

6 MR. BEDORE: Yes.

7 MR. GENSON: With regard to the Department of  
8 Corrections, now I -- I will admit to you I didn't  
9 understand the loansharking attempt to seven and a  
10 half percent because I guess I was reading something  
11 else. But the point of the matter is, Mr. Bedore,  
12 whatever it did, by virtue of your objection, you got  
13 -- you got the reduction; is that correct?

14 MR. BEDORE: It was presented to us this is a  
15 -- to pay off the loan for the seven years while the  
16 -- to pay off the permanent improvement requested by  
17 the Department of Corrections. And the rate of this  
18 -- excuse me -- the rate for this improvement, the  
19 cost was going to be 10 percent.

20 MR. GENSON: And so you -- and by virtue or  
21 at least following your objection, it was reduced to  
22 seven and a half; was it?

23 MR. BEDORE: After the board raised the  
24 objection, the administration went outside, made some

1 phone calls, and came back and reduced it to seven and  
2 a half.

3 MR. GENSON: Again, this was a savings to the  
4 state; was it?

5 MR. BEDORE: Yes.

6 MR. GENSON: And this was a suggestion that  
7 was followed by whoever -- whatever person from CMS  
8 you were dealing with; is that correct?

9 MR. BEDORE: Well, it wasn't a suggestion,  
10 because if CMS didn't follow this, we would have voted  
11 no on the lease.

12 MR. GENSON: But basically, before you vote  
13 no on these leases, and I gather, Mr. Brown stated,  
14 you voice your opinion, and, for the most part, your  
15 -- at least, your opinions are accepted; is that  
16 correct?

17 MR. BEDORE: Yes.

18 MR. GENSON: Now, again, with regard to a  
19 piece of property on Fulton Avenue, you talked about  
20 the fact that the building they were -- that was going  
21 to be leased had excess space in it or space that you  
22 felt was inappropriate relative to the number of  
23 people who were going to be there; is that right?

24 MR. BEDORE: Well, it's not my opinion.

1 It was also CMS. It's a building of 39,000 square  
2 feet. They went out for an RFI of 32,000.

3 MR. GENSON: So then they --

4 MR. BEDORE: So they wanted to reduce it  
5 also.

6 MR. GENSON: And so basically, it was either  
7 -- there was a suggestion either that they get another  
8 tenant or pay less rent; is that correct?

9 MR. BEDORE: Yes. Because I really believe  
10 that the costs of moving and remodeling and  
11 everything, it would probably be in the best interest  
12 of the State of Illinois, it's my opinion, that they  
13 could move in another state agency and occupy the 7 or  
14 10,000 square feet, thereby reducing the cost of that  
15 other agency's lease by moving them in.

16 MR. GENSON: And because of your efficiency,  
17 hopefully they'll come back in January or February  
18 having done what you -- what you have just suggested;  
19 is that correct?

20 MR. BEDORE: Well, what the board suggested,  
21 yes.

22 MR. GENSON: What the board suggested.

23 Now, we're talking about next I think a building  
24 in Harvey, and I guess that was the last one you

1 talked about.

2 MR. BEDORE: Yes.

3 MR. GENSON: And that building in Harvey, the  
4 rent was 19.48, but there was a -- and the reason it  
5 was so high is there was a build-out by the owners of  
6 the building which was being paid off because of the  
7 rent; is that right?

8 MR. BEDORE: Yes, because DCFS needed some  
9 remodeling in the building which amounted to \$7.76.

10 MR. GENSON: This remodeling could have been  
11 paid by DCFS and paid for or alternatively, the way it  
12 was done, it was included in the rent; is that  
13 correct, sir?

14 MR. BEDORE: That's correct.

15 MR. GENSON: And by -- now, with regard to  
16 that build-out, could you tell us if that -- was the  
17 build-out completed at the time of the renewal of the  
18 rent or was there some amount that hadn't been paid?

19 MR. BEDORE: There's some amount that has not  
20 been paid. It'll expire in two years, if I'm right.

21 MR. GENSON: So that theoretically then, the  
22 rent should include for at least the next two years  
23 that \$7 build-out; is that correct?

24 MR. BEDORE: Absolutely.

1           MR. GENSON: But in fact, the lease that was  
2 suggested was in excess of that two years; is that  
3 right?

4           MR. BEDORE: The lease for the next ten years  
5 was at the higher rate.

6           MR. GENSON: So that the --

7           MR. BEDORE: So eight years should have been  
8 reduced.

9           MR. GENSON: Eight years should have been  
10 reduced.

11          MR. BEDORE: Yes.

12          MR. GENSON: And that's -- they haven't come  
13 back to you yet --

14          MR. BEDORE: No.

15          MR. GENSON: -- with regard to a renewed --  
16 or, with regard to a changed lease; have they?

17          MR. BEDORE: That's correct.

18          MR. GENSON: And you're waiting for it; is  
19 that right?

20          MR. BEDORE: That's correct.

21          MR. GENSON: Now, you pointed out that that  
22 building was somehow involved or owned by a name or a  
23 leasing company by the name of Cacciatore; is that  
24 correct?

1 MR. BEDORE: Correct.

2 MR. GENSON: And Cacciatore is one of the  
3 larger landholders here or at least in Chicago; is  
4 that right? You've heard of them?

5 MR. BEDORE: Well, I've heard of them.

6 MR. GENSON: Okay. And you've -- you've  
7 pointed out for the committee that Cacciatore had  
8 donated an amount of money to the Governor, his  
9 campaign fund; is that correct?

10 MR. BEDORE: Yes, there was Tribune articles.

11 MR. GENSON: And that's where you read it.

12 MR. BEDORE: I read it and we also checked  
13 with the state registry -- the listing and then --  
14 yes.

15 MR. GENSON: Did you check the other --  
16 whether in fact Cacciatore gave large amounts of money  
17 to other officeholders?

18 MR. BEDORE: No, I didn't.

19 MR. GENSON: Have you gone through that? Do  
20 you know in fact?

21 MR. BEDORE: No, I have no idea.

22 MR. GENSON: Would you have the ability to  
23 check to see if Mr. Cacciatore gave money to other  
24 officeholders, other members of the legislature, other

1 members of the executive -- you don't know that; do  
2 you?

3 MR. BEDORE: I don't know that and we  
4 wouldn't have any reason to check it.

5 MR. GENSON: Okay. But then the only reason  
6 you know this is because you read it in the Tribune;  
7 is that right?

8 MR. BEDORE: Well, I read it. Because it was  
9 sort of strange that this lease was coming through  
10 with a \$2.6 million overcharge. If we would have  
11 approved --

12 MR. GENSON: Except you don't know whether  
13 that eight years was a mistake or if that eight years  
14 additional was intentional. You don't know that; do  
15 you?

16 MR. BEDORE: Well, I know that when we  
17 brought it back to CMS's attention, they said they  
18 were going to look into it and inquire about it, and  
19 they keep saying, well, we're negotiating -- this is  
20 their words -- we're negotiating with the owner.

21 MR. GENSON: And your job was to catch the  
22 mistake and you did catch it; didn't you, sir?

23 MR. BEDORE: I'm not saying it's a mistake.  
24 I'm saying it was inappropriate having that rate and

1 that rate should have been reduced months ago.

2 MR. GENSON: That rate would have been  
3 appropriate for two years; wouldn't it, sir?

4 MR. BEDORE: Yes.

5 MR. GENSON: And it's the additional time  
6 that's giving you the problem; isn't that correct,  
7 sir?

8 MR. BEDORE: That's absolutely correct.

9 MR. GENSON: And you're doing your best to  
10 correct it and that's your job.

11 Is that correct, sir?

12 MR. BEDORE: Yes.

13 MR. GENSON: Now, the people that you're  
14 dealing with are people from CMS; is that right?

15 MR. BEDORE: That's correct.

16 MR. GENSON: On that particular lease. And  
17 your contact is with the director, assistant director,  
18 as Mr. Brown said, bureau chief, various members of  
19 CMS; is that correct?

20 MR. BEDORE: That's correct.

21 MR. GENSON: I have no further questions.

22 Thank you very much.

23 CHAIRWOMAN CURRIE: Thank you.

24 Representative Lang for one follow-up.

1           REPRESENTATIVE LANG: Thank you.

2           Mr. Bedore referred to one of these leases, the  
3 one on Western Avenue, as loansharking. And while  
4 you're not here as an expert as to whether -- I assume  
5 that's just your --

6           MR. BEDORE: That was my personal --

7           REPRESENTATIVE LANG: Yeah. I assume that  
8 was your personal opinion. But nevertheless, you  
9 referred to a 10 percent rate when it should have been  
10 seven and a half. I'm just wondering if you could  
11 tell us now who the owner of that property is?

12          MR. BEDORE: I don't know the owner of that  
13 property. No, I don't.

14          CHAIRWOMAN CURRIE: Perhaps you can get back  
15 to us.

16          MR. BEDORE: We'll definitely get back to  
17 you. We do know it. I just don't have it.

18          REPRESENTATIVE LANG: Right. I'm sure you  
19 do. That's fine. Whenever you have it, we'll take  
20 it.

21          Thank you, Madam Chairman.

22          CHAIRWOMAN CURRIE: Just a reminder to  
23 Mr. Brown and Mr. Bedore that you have said you would  
24 provide other information to this committee, including

1 that piece of information, and we'd be grateful that  
2 you will remember that you said you would do it and  
3 that you would do it.

4 Thank you both very much for your testimony.

5 Now up, the Illinois Campaign for Political  
6 Reform. I think I've said it correctly. Cindy  
7 Canary. And if you would raise your right hand,  
8 please.

9 (Ms. Canary was duly sworn.)

10 CHAIRWOMAN CURRIE: Thank you very much.  
11 Please proceed.

12 MS. CANARY: Good afternoon. I'm Cindy  
13 Canary, director of the Illinois Campaign for  
14 Political Reform, a non-profit, non-partisan public  
15 interest group that conducts research and advocates  
16 reforms to promote public participation, address the  
17 role of money in politics, and encourage integrity,  
18 accountability, and transparency in government.

19 Ten years ago ICPR was founded by the late  
20 Senator Paul Simon, who throughout his governmental  
21 career, including his service in the Illinois House  
22 and Senate, was dedicated to cleaning up politics and  
23 government in Illinois.

24 I'm here today at the invitation of this

1 committee to address the pay-to-play scandal that has  
2 enveloped the Blagojevich administration.

3 I want this committee to be aware that ICPR has  
4 publicly called for the Governor's resignation. After  
5 reading the complaint lodged by the U.S. Attorney for  
6 the Northern District of Illinois, it was clear to us  
7 that the allegations have created at the --

8 MR. GENSON: It was my -- I would object to  
9 the relevancy of this. It was --

10 CHAIRWOMAN CURRIE: Mr. Genson.

11 MR. GENSON: It was my understanding that  
12 this inquiry was going to be related to a certain  
13 article relative to I think they called it the \$25,000  
14 club. Whatever it is, this isn't related to that, and  
15 I would object to its relevance, which I understand  
16 I'm allowed to do under the rules.

17 CHAIRWOMAN CURRIE: Yes. But, Mr. Genson,  
18 let me just say I think she's giving us background on  
19 the organization that she represents and I think  
20 that's legitimate.

21 MS. CANARY: And I'm simply trying to put  
22 this on the record so that -- that we're not holding  
23 anything back here.

24 It was clear to ICPR that the allegations

1 created, to us at least, a serious appearance of  
2 corruption which has impeded the Governor's ability to  
3 govern. And the Governor's intention to fight these  
4 charges without leaving office has, to our mind, made  
5 these impeachment proceedings unavoidable.

6 I am going to skip -- to satisfy Mr. Genson, I'm  
7 going to skip to the heart of my testimony. You've  
8 also been sitting here a long time, I do realize.

9 My testimony today is about pay-to-play, which in  
10 the broadest terms is authorizing or asking for an  
11 inducement in exchange for an administrative action  
12 taken by a public official. The object of pay-to-play  
13 is to obtain a government contract, job, or other  
14 favor. Pay-to-play is a two-way street. It can be  
15 initiated by a corrupt official seeking private  
16 benefit -- excuse me, corrupt official seeking private  
17 benefit from their public position or by a private  
18 citizen seeking to corrupt a public official.

19 Pay-to-play is not unique to the Blagojevich  
20 administration or to Illinois. Pay-to-play is partly  
21 the reason that former Governor George Ryan is housed  
22 today at a federal prison camp in Terre Haute,  
23 Indiana.

24 ICPR has given the committee staff copies of

1 numerous newspaper articles, as well as our own  
2 research, showing the significant numbers of state  
3 contracts that have been awarded by the Blagojevich  
4 administration to corporations and individuals who  
5 have also made large contributions to Friends of  
6 Blagojevich, the Governor's campaign committee.

7       While it is unnecessary to explain Illinois's  
8 campaign finance law to this committee, we should note  
9 for the record that Illinois places no limits on the  
10 size of campaign contributions and no restrictions on  
11 the transfer of money between committees, and, in  
12 contrast to federal law, allows corporations and  
13 unions to make direct contributions. Instead of  
14 limits and restrictions, Illinois requires only  
15 disclosure. If a public official wants to leverage  
16 governmental authority to generate campaign  
17 contributions or if a private party wants to use  
18 campaign contributions to influence a public official,  
19 Illinois's campaign finance law does nothing to  
20 prevent attempts at corruption.

21       When then-Congressman Rod Blagojevich created the  
22 Prairie State Committee, a state political action  
23 committee, and raised a large amount of money for a  
24 committee not explicitly formed to support any cause

1 or candidate, ICPR began to keep a close eye on those  
2 receipts.

3 By the time the committee formally changed its  
4 name to Blagojevich for Governor in August of 2001, it  
5 had already amassed over \$2.25 million in receipts.  
6 Over the next six years the Governor raised an  
7 additional \$56 million. We believe that the patterns  
8 of Governor Blagojevich's fundraising, when viewed in  
9 total, create an appearance of corruption, which has  
10 been a significant factor in the deterioration of our  
11 citizens' belief in the legitimacy of the Governor's  
12 administration.

13 As Rod Blagojevich ramped up his fundraising for  
14 the 2002 primary election, he reported significant  
15 five- and six-figure donations from three different  
16 construction companies, all of which shared the same  
17 address in Markham, Illinois. Research determined  
18 that these three companies were affiliated with Chris  
19 Kelly, and that a fourth company, CGK Consulting in  
20 Frankfort, was also connected. Together, these four  
21 firms accounted for over \$650,000 in donations and  
22 loans to the Blagojevich campaign. Kelly, of course,  
23 played a key role within his campaign as finance  
24 chairman and later was named a special government

1 agent representing the Governor with the Illinois  
2 Gaming Board. He is currently charged with tax fraud  
3 relating to gambling debts.

4 The pattern of making multiple, large, and  
5 apparently coordinated campaign contributions from  
6 affiliated entities to the Governor's campaign was  
7 established early and became a pattern we looked for,  
8 and found, regularly.

9 From the day the gubernatorial campaign committee  
10 was formed, Rod Blagojevich's campaign fund has raised  
11 more than \$58 million in eight years, an astonishing  
12 achievement. We came to see the fund as one of the  
13 most aggressive and effective fundraising machines in  
14 state history.

15 I outline this to illustrate that questionable,  
16 even alarming, fundraising practices were in evidence  
17 from the time that Mr. Blagojevich first set his eye  
18 on the governor's office. During Governor  
19 Blagojevich's tenure, we have witnessed a sea change  
20 in how money and politics intersect.

21 I call your attention to a Chicago Tribune  
22 article from earlier this year, "The Governor's  
23 \$25,000 club; big campaign donors to Blagojevich  
24 benefit from state."

1           The Tribune investigation found 235 checks  
2 written for exactly \$25,000 and payable to the  
3 Governor's campaign. The Tribune discovered that  
4 three-quarters of them came from people or  
5 organizations that had gotten something favorable from  
6 the administration, such as contracts, board  
7 appointments, favorable policy, or regulatory actions.

8           An examination of records at the State Board of  
9 Elections found that Governor Blagojevich's  
10 gubernatorial campaign fund has reported over 440  
11 donations of \$25,000 or more and that these donations  
12 account for more than \$21 million in receipts.

13           These donations raise red flags to outside  
14 observers such as ourselves. The disclosure reports  
15 say how much donors gave to whom and when, but they do  
16 not tell us why the donation was made. In many  
17 instances, there's a troubling, apparent correlation  
18 between donations and state actions. Media reports  
19 have noted on many occasions large donations to the  
20 Governor's campaign fund came within weeks or days of  
21 the donor benefiting from a positive action by an  
22 agency under the Governor's control.

23           The Chicago Tribune highlighted several of these  
24 apparent correlations in their April story on the

1 Governor's \$25,000 club. The Tribune noted:

2 Attorney and political fundraiser Myron "Mike"  
3 Cherry made a \$25,000 donation on September the 9th,  
4 2002; his law firm, Myron M. Cherry and Associates,  
5 made another \$25,000 donation on June 18th, 2004.  
6 According to the Tribune, the Department of Financial  
7 and Professional Regulation hired Cherry's law firm  
8 and the firm billed the state over \$900,000 for legal  
9 services.

10 Cordogan, Clark & Associates gave the Blagojevich  
11 fund \$25,000 on July 25th, 2003. John Clark, a named  
12 partner with Cordogan, Clark & Associates, told the  
13 Tribune that Wilton Partners, the lead contractor on  
14 the Tollway Oasis project, had urged him to make this  
15 contribution. John Clark's firm, Cordogan Clark, had  
16 a subcontract with Wilton Partners.

17 Patrick Engineering made a \$150 donation on July  
18 19th, 2002. In September of that year the company  
19 gave \$1,000. By 2007 it had given over \$56,000. The  
20 company has held state contracts worth an average of 4  
21 million in each of the last six fiscal years,  
22 principally with IDOT and the Tollway Authority.

23 ACS State and Local Solutions gave its first  
24 donation to the Blagojevich fund of \$25,000 on July

1 25th, 2003. It has since given about another 25,000  
2 over three donations. Its contracts with state  
3 agencies, mainly the Department of Healthcare and  
4 Family Services, have averaged 17 million in each of  
5 the last six fiscal years. This contract, while  
6 initiated under the Ryan administration, was finalized  
7 in 2003, the same month as a \$25,000 donation was made  
8 to the Blagojevich fund.

9 Wight & Company gave the Blagojevich campaign  
10 fund \$500 on March 6th, 2002, \$6,000 on May 22nd,  
11 2002, and other donations through June of this year,  
12 bringing its total giving to the fund to over  
13 \$125,000. The company has three no-bid contracts with  
14 the Tollway, where most of its state contracts are.  
15 Total state contracts have averaged over 2.5 million  
16 over the last six years.

17 System Development Integration gave 2,000 to the  
18 Blagojevich fund on June 23rd, 2002. The company made  
19 additional donations of \$10,000 on June 8th, 2002,  
20 \$5,000 on March 31st, 2006, and CEO David Gupta wrote  
21 a personal check for \$25,000 on July 14th, 2003. The  
22 Tribune reported that System Development Integration  
23 was a subcontractor on a new emergency response  
24 headquarters. The firm has a contract with the

1 Tollway worth over \$2 million for fiscal year 2009.

2 Environmental Design International gave over  
3 \$57,000 to the Blagojevich campaign fund, including  
4 donations of \$25,000 each on July 25th, 2003, and June  
5 21st, 2004. The company had contracts worth \$560,000  
6 in fiscal year '04.

7 These, sadly, are just a handful of examples of  
8 the troubling nexus between campaign contributions and  
9 the operation of state government.

10 Ten years ago a contribution in excess of \$2500  
11 would have raised eyebrows. Those are the ones that  
12 groups like ICPR and journalists would look at more  
13 closely to see whether there was a connection to a  
14 state contractor. Some were from old friends or  
15 wealthy relatives, while others were from executives,  
16 corporations, and labor unions that had received or  
17 sought benefit from state government.

18 When there is a nexus between a campaign  
19 contribution and a state contract or government job,  
20 the question that we ask is: Were they just  
21 supporting an officeholder who shared their political  
22 views or were they using campaign contributions to  
23 ensure favorable treatment? Were they responding to  
24 shakedowns by making campaign contributions to ensure

1 that the officeholder would not shut them out from  
2 consideration?

3 In recent years, the Blagojevich years, the size  
4 of such contributions has exploded. \$2500 doesn't  
5 make anyone blink anymore.

6 ICPR, with assistance from Kent Redfield and the  
7 Sunshine Project, examined contributions at the level  
8 of \$25,000 and above to the campaigns of Governor  
9 Blagojevich, former Governor George Ryan, and former  
10 Governor Jim Edgar. Here are the numbers that we  
11 found:

12 Former Governor Jim Edgar. We examined his last  
13 six years as Governor and found he raised nearly \$11.8  
14 million in total. That included just eight  
15 contributions of \$25,000 or more, a total of \$422,000.  
16 Those eight really big contributions amounted to about  
17 3.6 percent of the total amount that Jim Edgar raised.

18 George Ryan. We examined a six-year period that  
19 included his four years as Governor and as he geared  
20 up for his 2000 campaign. George Ryan raised almost  
21 \$20 million. That included 35 contributions of  
22 \$25,000 or more, for a total of \$1.6 million. Those  
23 35 really big contributions constituted about 8.2  
24 percent of the total that George Ryan raised.

1           Governor Rod Blagojevich. We examined eight  
2 years that included his time as Governor and the  
3 ramp-up to the 2002 election. Rod Blagojevich has  
4 raised \$58.3 million and that has included 435  
5 contributions of \$25,000 or more, a total of 20.6  
6 million. And these 435 really big contributions  
7 constitute about 35.3 percent of the total that the  
8 Governor has raised. Those large contributions are  
9 the ones that have been raising questions since the  
10 Governor took office.

11           In the last two decades, the size of campaign  
12 contributions made by state contractors and others to  
13 governors has grown tremendously.

14           In 2005, the Sun-Times -- Chicago Sun-Times  
15 analyzed contributions and state contracts, "Donations  
16 and deals raise eyebrows." The Sun-Times looked at 20  
17 companies that had given a combined \$925,500 to  
18 Friends of Blagojevich and discovered the firms had  
19 been paid or were under contract to be paid a total of  
20 \$365 million by state government.

21           The criminal prosecutions of Tony Rezko, Chris  
22 Kelly, Stuart Levine, and others have dramatically  
23 increased the public perception that state contracts,  
24 jobs, and other benefits in the Blagojevich

1 administration are handed out to the largest campaign  
2 contributors and not to the firms or persons most  
3 qualified to receive them.

4 Most recently, the Chicago Tribune found that  
5 state contractors had given 250,000 of the \$650,000 in  
6 contributions that Governor Blagojevich raised this  
7 past June, which happened to be in the first 30 days  
8 after the House unanimously passed House Bill 824, the  
9 pay-to-play reform legislation.

10 According to the Tribune analysis, more than 125  
11 state contractors or their employees contributed at  
12 least \$399,000 to the Governor's campaign in the first  
13 six months of the year. Those contractors have been  
14 awarded more than 1.1 billion in state business since  
15 he was elected Governor.

16 Utilizing public databases available from the  
17 State Board of Elections and the Comptroller's office,  
18 ICPR's own research has independently confirmed many  
19 of these accounts.

20 These contributions and the headlines led to the  
21 ultimate passage, over Governor Blagojevich's veto, of  
22 House Bill 824, the pay-to-play legislation.  
23 Beginning January 1st, 2009, holders of state  
24 contracts valued at \$50,000 or more will be banned

1 from contributing to the officeholder who awarded the  
2 contract.

3 Strangely and sadly, the enactment of that law is  
4 alleged to have caused the Governor to go into  
5 overdrive to squeeze more campaign funds from state  
6 contractors. The complaint from the federal  
7 government explains that the Governor recently  
8 attempted to raise as much money as possible from  
9 state contractors in advance of the ban.

10 Because the ban did not take effect immediately,  
11 it was a little like handing an arsonist the keys to a  
12 gas station and saying you would return in three  
13 months. The people of Illinois and, indeed, the world  
14 are now viewing the five-alarm fire that has resulted.

15 I am personally saddened and angered by the  
16 devastating impact that the alleged pay-to-play  
17 practices of the Blagojevich administration have had  
18 on our state and on our public's confidence in  
19 government.

20 I would like to close by applauding this  
21 committee for its work in helping the Illinois General  
22 Assembly fulfill its responsibility under the Illinois  
23 Constitution.

24 Thank you very much.

1 CHAIRWOMAN CURRIE: Thank you, Ms. Canary.  
2 Representative Lang.

3 REPRESENTATIVE LANG: Yes, Madam Chairman,  
4 thank you.

5 And before I proceed, because it seems to be  
6 relevant to this testimony, I would just make a  
7 request that we make part of the record of this  
8 committee all campaign reports filed by Friends of  
9 Blagojevich and all campaign reports filed by the  
10 Prairie State Committee.

11 Additionally, I would request that we make part  
12 of the record of this proceeding the names of all  
13 those listed in the Tribune report, as there are 40  
14 some odd people who have been appointed to boards and  
15 commissions who are directly linked to \$25,000 or more  
16 donations. I think we should get that list into our  
17 committee records. I think it should be  
18 cross-referenced by name, by what board they were  
19 appointed to, and whether they're making a salary, and  
20 additionally, what the donation was.

21 CHAIRWOMAN CURRIE: The committee can do  
22 that. Let me just say that I think instead of just  
23 identifying just those two Blagojevich campaign funds,  
24 we should say all Blagojevich campaign funds. I think

1     there may be another one as well.

2                 REPRESENTATIVE LANG:   That would be fine,  
3     certainly.   Thank you very much.

4                 I just have a few questions.   And we thank you  
5     for being here today.

6                 While I know your organization has not linked  
7     each and every campaign donation to each and every  
8     action of state government, let me start by just I  
9     think stating the obvious, which is you -- or asking  
10    the obvious.   You wouldn't say here today that simply  
11    because Governor Blagojevich is a very good  
12    fundraiser, that if he's doing that legally and  
13    appropriately, there's anything wrong with that;  
14    correct?

15                MS. CANARY:   I would not.

16                REPRESENTATIVE LANG:   So I know your  
17    organization for years have been trying to do campaign  
18    finance reform, but if he followed the law the way it  
19    currently is, the fact that he's a better campaign --  
20    or, a better money raiser than George Ryan or Jim  
21    Edgar or anybody else is not particularly relevant;  
22    correct?

23                MS. CANARY:   It is not.   We are only  
24    concerned with the patterns and correlations we see.

1           REPRESENTATIVE LANG: Now, you indicate in  
2 your report that according to the Tribune analysis  
3 more than 125 state contractors or employees  
4 contributed at least \$399,000 to the Governor's  
5 campaign and that those contractors have been awarded  
6 more than \$1.1 billion in state business. It's an  
7 interesting inference. Do you have any suggestions  
8 for this committee how we tie that up to make it more  
9 than an inference?

10           MS. CANARY: Yes. Pay-to-play is an  
11 extraordinarily difficult thing to prove. You know,  
12 you need to find the quid pro quo. And I think that  
13 it is far beyond the resources or ability of my office  
14 and far beyond what most news organizations can do,  
15 but it is something that can be done quite possibly  
16 with the subpoena power of this committee. It's  
17 certainly something that we have seen the U.S.  
18 Attorney pursuing in his efforts.

19           REPRESENTATIVE LANG: Would you expect that  
20 if we found those names and tried to link them  
21 together that that would -- those names would be among  
22 the list that the U.S. Attorney would not let us talk  
23 to?

24           CHAIRWOMAN CURRIE: We don't know what the

1 U.S. Attorney is --

2 MS. CANARY: I don't know. I don't know what  
3 the U.S. Attorney will do.

4 REPRESENTATIVE LANG: The only other thing I  
5 want to ask you about is in the last several pages of  
6 your handout and I want to zero in specifically on  
7 no-bid contracts. Is there -- do you have any  
8 information that would bear on the issue of whether  
9 those no-bid contracts were properly or improperly  
10 let?

11 MS. CANARY: I do not have specific  
12 information.

13 REPRESENTATIVE LANG: All right. Madam  
14 Chairman, I would direct to you and to our attorneys  
15 my request that we try to zero in on some of these  
16 larger no-bid contracts and ask whatever questions we  
17 need to of whatever state agency to determine whether  
18 all the rules and regulations were followed in the  
19 letting of those no-bid contracts.

20 CHAIRWOMAN CURRIE: Thank you.

21 REPRESENTATIVE LANG: And with that, I have  
22 completed my questions. Thank you very much.

23 CHAIRWOMAN CURRIE: Representative Davis.

24 REPRESENTATIVE DAVIS: Thank you, Madam

1 Chairman. Thank you very much.

2 You know, I really appreciate your testimony, but  
3 I do have a few questions that I think I want to ask  
4 just to clarify some of the things that you stated.

5 MS. CANARY: Sure.

6 REPRESENTATIVE DAVIS: Can you characterize  
7 your interaction with the Blagojevich administration  
8 over the last five years as your organization has  
9 worked to strengthen the ethics laws?

10 MS. CANARY: Yes, certainly. And this is a  
11 rather odd, I suppose, book end to these interactions.

12 In 2002, I served on the Governor's transition  
13 team, on his ethics and campaign reform subcommittee.  
14 We worked with the Governor's administration in 2003  
15 to try to advance the 2003 Governmental Ethics Act.

16 Sometime after that we -- we stopped having  
17 communications. Our phone calls stopped being  
18 returned from the Governor's office. More recently we  
19 have been talking once again to some members in the  
20 staff.

21 So we have both -- we have been -- certainly, we  
22 have been critical, but we have also tried to be  
23 encouraging of actions that we believe were correct.

24 REPRESENTATIVE DAVIS: So you met with some

1 resistance. But did you always -- I mean it wasn't  
2 always there. You were on the transition team.

3 MS. CANARY: Right.

4 REPRESENTATIVE DAVIS: So eventually, there  
5 was resistance against your effort to have ethics  
6 reform; is that correct?

7 MS. CANARY: That is correct.

8 REPRESENTATIVE DAVIS: Would you consider the  
9 Governor's actions true to his platform? You know, he  
10 claimed he was going to be a great reformer and he was  
11 going to end pay-to-play in Illinois. Do you see,  
12 Cindy Canary, his actions as being, say, with that?

13 MS. CANARY: In my personal opinion, no, I do  
14 not.

15 REPRESENTATIVE DAVIS: Do you believe that  
16 his campaign contributions influenced decisions and  
17 the office to award contracts and make appointments to  
18 boards and to commissions?

19 MS. CANARY: Again, I do not have specific  
20 knowledge of the quid pro quos, but the patterns that  
21 I have seen and the correlations that I have seen  
22 between donations, appointments, and contracts concern  
23 me very greatly.

24 REPRESENTATIVE DAVIS: But we have to admit

1 that correlation does not imply causation.

2 MS. CANARY: That's correct.

3 REPRESENTATIVE DAVIS: And does it seem like  
4 much more than a coincidence to you that three out of  
5 four individuals or interest groups or businesses who  
6 gave 25,000 to the Governor they did receive  
7 something? Three out of four of those large 25,000 or  
8 more contributors, they received something in return.

9 MS. CANARY: This appears to me to be far  
10 beyond coincidental.

11 REPRESENTATIVE DAVIS: Okay. What about  
12 those who contributed less than 25,000? You know,  
13 some people gave 10,000, 15, 20. Can we identify  
14 anything that those -- that group or those groups  
15 received?

16 MS. CANARY: There are -- certainly there are  
17 individuals that have given less than 25,000 who have  
18 -- who have received appointments, contracts, and  
19 other things. This is extraordinarily difficult, as I  
20 tried to explain, to untangle people's motivations in  
21 giving, particularly in a state like Illinois where we  
22 don't have contribution limits. So we -- we see some  
23 patterns, but we also see some certainly smaller  
24 donors and non-donors who have been appointed.

1           REPRESENTATIVE DAVIS: But on January 1st of  
2 2009, we're going to have ethics legislation that will  
3 prohibit those who give -- or, it doesn't matter  
4 really. If -- they can't get state contracts if they  
5 do what, give more than --

6           MS. CANARY: If they have a contract in  
7 excess of \$50,000, they will no longer be allowed to  
8 make --

9           REPRESENTATIVE DAVIS: I think it's 25,000.

10          REPRESENTATIVE MENDOZA: 50.

11          REPRESENTATIVE DAVIS: Is it 50? Okay.

12          MS. CANARY: 50 or more, they can't -- they  
13 can no longer make contributions to the executive who  
14 ordered that, who oversaw that.

15          REPRESENTATIVE DAVIS: Do you think that will  
16 drive a stake in pay-to-play politics?

17          MS. CANARY: I certainly hope that it is  
18 helpful.

19          REPRESENTATIVE DAVIS: The effort should do  
20 something; wouldn't you agree?

21           Do you believe that the Governor's actions have  
22 cost the taxpayers of Illinois a great deal of money?  
23 Considering that some of the contracts awarded to  
24 donors were no-bid and some of the people appointed to

1 boards or commissions were not perhaps the best  
2 qualified and, therefore, they didn't provide the  
3 level of service that a person who perhaps might have  
4 been better qualified but didn't have it to give or  
5 didn't give so they didn't get the job. In other  
6 words, do you believe that there's a correlation in  
7 Illinois government that has an estimable cost to the  
8 taxpayers of what has happened?

9 MS. CANARY: I do. Whenever we award  
10 contracts that are not based on either the highest  
11 level of services or the best cost available, then we  
12 are squandering taxpayer dollars. So I think that it  
13 is very likely that there is a cost here.

14 REPRESENTATIVE DAVIS: Let me ask this final  
15 question: Have you made any comparisons with other  
16 governors in other states and their fundraising  
17 ability in reference to what's going on in Illinois?

18 MS. CANARY: Yes, Representative Davis. In  
19 virtually every other state, I believe 47 of the other  
20 states, there are contribution limits. It is very  
21 unusual to allow an elected official, a governor, to  
22 take contributions of any size. So you do not see --  
23 my colleagues in other states, if I explain what's  
24 going on here, the idea of a \$25,000, let alone a

1 larger contribution, is stunning to most people, which  
2 may be one of the reasons why we, sadly, have gotten  
3 such national press on this.

4 REPRESENTATIVE DAVIS: And some people have  
5 made statements that this corruption is throughout the  
6 State of Illinois and that all politicians or all  
7 elected officials are a part of it. Would you agree  
8 with that?

9 MS. CANARY: I would not. I believe that  
10 Illinois is actually fortunate in that we have some  
11 very, very fine elected officials. I'm not pandering  
12 here.

13 REPRESENTATIVE DAVIS: You don't have to.  
14 You don't have to.

15 MS. CANARY: But I do believe that. But I  
16 think that whenever something like this happens, it is  
17 almost as if a dark cloud comes over all of us. So  
18 while we may have some very fine elected officials, we  
19 are all hurt from the fallout of this scandal. And it  
20 is extraordinarily difficult for the public to  
21 disentangle what is going on and distinguish the  
22 honest public servant from the one who is facing  
23 allegations or having questions raised about them.

24 REPRESENTATIVE DAVIS: Finally, Ms. Canary,

1 what do you think the cost is to our taxpayers in  
2 Illinois? What is the cost?

3 MS. CANARY: I think that it's -- it's almost  
4 incalculable. What is the cost of these hearings?  
5 What is the cost of these proceedings? What is the  
6 cost of the bond issuance of that we had to hold back  
7 the other day that cost us maybe 20 million extra?  
8 There are all kinds of factors that are adding up over  
9 here in this column. And I think that I would, you  
10 know, throw out there, maybe someday we can kind of  
11 step back and add all that together. The one thing I  
12 think we cannot calculate is what is the cost to  
13 public confidence of all of this.

14 REPRESENTATIVE DAVIS: Thank you, Madam  
15 Chairman.

16 And thank you, Ms. Canary.

17 CHAIRWOMAN CURRIE: Representative Fritchey.

18 REPRESENTATIVE FRITCHEY: Thank you,  
19 Ms. Canary.

20 I want to just home in on one specific aspect.  
21 I'll start by saying something I think a lot of people  
22 recognize here. Simply being an abundant fundraiser  
23 is not in and of itself an offense, impeachable or  
24 otherwise.

1 MS. CANARY: Correct.

2 REPRESENTATIVE FRITCHEY: My question goes to  
3 motivations. You and I have worked for years on  
4 passing the pay-to-play ban; correct?

5 MS. CANARY: Correct.

6 REPRESENTATIVE FRITCHEY: Is it an accurate  
7 statement that to say throughout the duration of our  
8 efforts they were met -- those efforts were met with a  
9 consistent resistance by the administration?

10 MS. CANARY: That is correct.

11 REPRESENTATIVE FRITCHEY: That resistance  
12 manifesting itself ultimately in the Governor's  
13 amendatory veto of the legislation.

14 MS. CANARY: That is correct. It was a  
15 consistent and vigorous resistance.

16 REPRESENTATIVE FRITCHEY: We're not in a  
17 capacity to recognize you as an expert witness, but it  
18 would be I think a fair assessment to say you've been  
19 oft recited to as an authority on the issue of  
20 Illinois campaign finance laws and practices; correct?

21 MS. CANARY: I'm quite familiar with them,  
22 yes.

23 REPRESENTATIVE FRITCHEY: During the work on  
24 the pay-to-play legislation, polling was done from the

1 Illinois public on whether they thought that a  
2 pay-to-play ban should be the law of the land in this  
3 state; is that correct?

4 MS. CANARY: That's correct.

5 REPRESENTATIVE FRITCHEY: Do you remember  
6 approximately how many people in Illinois -- the  
7 percentage of people that supported this?

8 MS. CANARY: I don't remember the exact  
9 figure, but it was nearly 90 percent.

10 REPRESENTATIVE FRITCHEY: Correct. It was  
11 close to nine out of ten Illinoisans want the  
12 pay-to-play ban.

13 When the bill came out of the General Assembly  
14 the first time, it came out I believe unanimously out  
15 of the Senate and there were three dissenting votes in  
16 the House; correct?

17 MS. CANARY: That's correct.

18 REPRESENTATIVE FRITCHEY: So that puts us  
19 well over 90 percent of the General Assembly as well.

20 MS. CANARY: Yes.

21 REPRESENTATIVE FRITCHEY: Nevertheless, the  
22 Governor had a position, which he's entitled to hold,  
23 contrary to that of the vast majority of the people of  
24 this state and the vast majority of the legislature;

1 correct?

2 MS. CANARY: Correct.

3 REPRESENTATIVE FRITCHEY: In light of those  
4 and in light of your experience and in light of the  
5 allegations set forth in the criminal complaint that  
6 the Governor had stated an intention to ramp up  
7 fundraising efforts prior to the January 1  
8 implementation date of the pay-to-play ban, would it  
9 be fair to say that your opinion or is -- do you have  
10 an opinion that the Governor's efforts to thwart the  
11 effort of the legislature was not premised upon policy  
12 but rather on the interest of continuing to promulgate  
13 his voracious fundraising pattern?

14 MS. CANARY: That -- that is my opinion. And  
15 in fact, the Governor never offered a policy  
16 explanation for his objections.

17 REPRESENTATIVE FRITCHEY: So as you sit here  
18 today, the best that you can ascertain is that the  
19 Governor's objections were based on personal  
20 motivations?

21 MS. CANARY: As best I can ascertain.

22 REPRESENTATIVE FRITCHEY: That's all I  
23 wanted. Thank you, Madam Chairman.

24 CHAIRWOMAN CURRIE: Representative Tracy.

1           REPRESENTATIVE TRACY: Thank you, Madam  
2 Chairman.

3           I was wondering, when you detailed or saw the  
4 names of the 440 \$25,000 or more contributions and  
5 then you happened on the other side to see where these  
6 in fact had gotten contracts with the state fairly  
7 closely after, were these -- did you find any that had  
8 -- I want to understand if these were entities that  
9 had done business previously with the state or if you  
10 studied any correlation between that they had perhaps  
11 worked for the state in some capacity previous to this  
12 administration?

13           MS. CANARY: Some had and some had not.

14           REPRESENTATIVE TRACY: Were there any  
15 outstanding numbers or just --

16           MS. CANARY: I would have to go back and look  
17 at that for you, but we could.

18           REPRESENTATIVE TRACY: Okay. Thank you.

19           CHAIRWOMAN CURRIE: And if you do, we would  
20 appreciate it if you would give copies to the  
21 committee.

22           MS. CANARY: Certainly.

23           CHAIRWOMAN CURRIE: Representative Bassi.

24           REPRESENTATIVE BASSI: Thank you, Madam

1 Chairman.

2 Thanks for coming today. A quick question. You  
3 had said, Cynthia, that pay-to-play can be difficult  
4 to prove. But would it be fair to say that the  
5 pattern is something like pornography, that you know  
6 it when you see it?

7 MS. CANARY: Well, that's how I feel about  
8 it.

9 REPRESENTATIVE BASSI: Thank you.

10 Thank you, Madam Chairman.

11 CHAIRWOMAN CURRIE: Representative Bradley.

12 REPRESENTATIVE BRADLEY: You have to hit that  
13 red light right.

14 Hello, Ms. Canary. How are you?

15 MS. CANARY: Good, thank you.

16 REPRESENTATIVE BRADLEY: Did you file House  
17 Bill 1, the bill for the campaign reform, was that  
18 just filed in a vacuum or did you have some concerns  
19 when you filed that?

20 MS. CANARY: Well --

21 REPRESENTATIVE BRADLEY: Well, I know you  
22 didn't file that. Representative Fritchey did.

23 MS. CANARY: Yes, sir.

24 REPRESENTATIVE BRADLEY: I'm sorry.

1 MS. CANARY: That's quite all right.

2 No. You know, we -- we don't believe in reform  
3 for reform's sake. This is not just about tying  
4 people's hands and making life difficult down here.  
5 Our sense was very much that through the reporting  
6 that we saw and through our own database that we were  
7 seeing an increasing influx of large contributions  
8 from contractors. And it seemed that it might be  
9 something if we could bull's-eye in on that we could  
10 actually get passed down here. So it was very much a  
11 solution that was drawn to fit a problem.

12 REPRESENTATIVE BRADLEY: And what was your  
13 concern specifically with regards to what you were  
14 seeing?

15 MS. CANARY: Our concern was that it was  
16 possible that contracts were being awarded to those  
17 who made the highest contributions, those who were  
18 paying to play, rather than those who perhaps could  
19 come in at a lower price or with a higher quality of  
20 services.

21 REPRESENTATIVE BRADLEY: And when did that  
22 begin? When did you actually start developing the  
23 idea that you needed to have Representative Fritchey,  
24 my friend, file House Bill 1?

1 MS. CANARY: We -- let's see. We worked on  
2 House Bill 1 for about three years. So I think it  
3 first -- it first -- it first emerged in 2005, I would  
4 guess, but we were noticing these patterns really from  
5 2003.

6 REPRESENTATIVE BRADLEY: 2003. And the  
7 administration took office in?

8 MS. CANARY: 2003.

9 REPRESENTATIVE BRADLEY: So this is not  
10 something that occurred earlier this month. This is  
11 something that you've been concerned about --

12 MS. CANARY: Yes.

13 REPRESENTATIVE BRADLEY: -- for a long period  
14 of time.

15 MS. CANARY: Yes.

16 REPRESENTATIVE BRADLEY: And your concern  
17 here is about the government; right? You're about the  
18 people getting their money's worth?

19 MS. CANARY: Yes. I think that's what all of  
20 us are concerned about, people getting their money's  
21 worth, people having honest representation, and people  
22 feeling their government is accountable to them.

23 REPRESENTATIVE BRADLEY: And when you see  
24 those patterns, as a good government group founded by

1 my friend, Senator Paul Simon, it makes you concerned  
2 when you see those patterns.

3 MS. CANARY: Absolutely.

4 REPRESENTATIVE BRADLEY: Because the result  
5 of those patterns is the people hurting, and people  
6 suffering, and the state suffering and the state  
7 hurting.

8 Correct?

9 MS. CANARY: I think that is absolutely  
10 correct.

11 REPRESENTATIVE BRADLEY: And that is in fact,  
12 based upon your own experience in government and also  
13 as a layperson, what you see all around you every day  
14 is people hurting; correct?

15 MS. CANARY: Yes.

16 REPRESENTATIVE BRADLEY: And people  
17 suffering; correct?

18 MS. CANARY: Uh-huh.

19 REPRESENTATIVE BRADLEY: And the state  
20 suffering; correct?

21 MS. CANARY: Yes, sir.

22 REPRESENTATIVE BRADLEY: And the state  
23 hurting; correct?

24 MS. CANARY: Yes.

1           REPRESENTATIVE BRADLEY: Thank you very much,  
2 ma'am.

3           CHAIRWOMAN CURRIE: Thank you.

4           And thank you for your testimony.

5           Mr. Genson, you look like you're raising your  
6 hand.

7           MR. GENSON: Yes.

8           Are you aware that this committee has no subpoena  
9 power, ma'am?

10          CHAIRWOMAN CURRIE: This committee does have  
11 subpoena power.

12          MR. GENSON: Oh, we just can't -- I just  
13 can't have -- can I have subpoenas?

14          CHAIRWOMAN CURRIE: No. The committee has  
15 subpoena power. You can make a recommendation to the  
16 committee and the committee would take that  
17 recommendation under advisement.

18          MR. GENSON: It was under my -- my  
19 understanding, at least initially, that the committee  
20 was not going to have subpoena power. But they do. I  
21 misunderstood. Right?

22          So if I give -- so prior to the end of the  
23 committee -- the end of the session today, if I give  
24 you a list of people whom I want subpoenaed, you would

1 consider the possibility?

2 CHAIRWOMAN CURRIE: We would take it under  
3 advisement, Mr. Genson. But we're not -- remember,  
4 this is not a criminal activity. We are not making a  
5 determination of the guilt or innocence of the  
6 Governor with respect to charges that have been filed  
7 by the federal prosecution.

8 MR. GENSON: I under --

9 CHAIRWOMAN CURRIE: So if your intention  
10 would be to -- to --

11 MR. GENSON: I never had that kind of  
12 intention.

13 CHAIRWOMAN CURRIE: -- to give us an early  
14 look at what's going to happen in a federal courtroom  
15 down the line, we're not interested.

16 MR. GENSON: The chances of them complying  
17 with your or my subpoena is nil. But I do have other  
18 people I'd like to subpoena. And so if I'm given that  
19 opportunity, I'd like to submit that.

20 I have a few questions.

21 CHAIRWOMAN CURRIE: You may ask a few  
22 questions, clarification questions, right.

23 MR. GENSON: The article that you've attached  
24 to your submission, the Tribune article, I gather,

1 does that -- that says that donors were interviewed  
2 and it said they gave to show their support for the  
3 first Democratic Governor in a quarter century or to  
4 get the attention of the new regime. That's in that  
5 article; is that correct?

6 MS. CANARY: That is correct.

7 MR. GENSON: And did you personally interview  
8 any of the donors, you or your organization, with  
9 regard to --

10 MS. CANARY: I have not interviewed those  
11 donors.

12 MR. GENSON: And with regard to the  
13 correlation -- I know you did submit some charts. I  
14 have them here. But in regards to the correlation  
15 between the people who gave campaign contributions and  
16 then contracts or appointments or whatever, this was  
17 not your correlation. All -- you did a ton of the  
18 work, but certainly not all of it; is that right?

19 MS. CANARY: The work in that article of the  
20 \$25,000 club was the work of the Chicago Tribune.

21 MR. GENSON: Okay. But you did give us some  
22 charts. I believe that they -- there are some written  
23 charts that were not included, Madam Chairman, in the  
24 submission but were given to us. Are they being

1 considered as evidence in this --

2 CHAIRWOMAN CURRIE: I'm sorry, I haven't seen  
3 that. Where did that come from?

4 MR. GENSON: When we were submitted the name  
5 of the witness, we were given the Tribune article  
6 together with approximately 15 or 20 pages of charts  
7 that I assume were prepared by the witness. Are these  
8 to be considered as evidence and have they been  
9 offered?

10 MS. CANARY: I believe those are simply the  
11 list of \$25,000-plus donors drawn from the State Board  
12 of Elections.

13 REPRESENTATIVE: Madam Chairman, I'm not sure  
14 if the members of the committee have that chart.

15 CHAIRWOMAN CURRIE: Is it in the back -- is  
16 it in the back of your testimony, Ms. Canary?

17 MS. CANARY: I don't know.

18 MR. GENSON: I was submitted these charts by  
19 -- by David Ellis.

20 REPRESENTATIVE: Well, perhaps -- perhaps we  
21 just didn't get it yet, but certainly I would like to  
22 see it.

23 CHAIRWOMAN CURRIE: Yeah. Okay. So these  
24 came from --

1 MS. CANARY: They came from us, yes.

2 CHAIRWOMAN CURRIE: Okay. Then everybody  
3 will get them, and, yes, we'll accept them as part of  
4 the record of the proceedings.

5 MR. GENSON: And the donors -- the donors --  
6 so these donors that we were talking about -- I think  
7 one you talked about on direct examination, I think  
8 you talked about Myron Cherry. Did you?

9 MS. CANARY: Yes.

10 MR. GENSON: Now, Myron Cherry was one of the  
11 single biggest donors to President Clinton. You're  
12 aware of that?

13 MS. CANARY: That's correct. Yes, I am.

14 MR. GENSON: And he is a large donor to  
15 Democratic politicians all over the country. You're  
16 aware of that?

17 MS. CANARY: Yes, I am.

18 MR. GENSON: And he was retained by the state  
19 regarding a -- I believe a class action or some sort  
20 of litigation; is that correct?

21 MS. CANARY: I believe so, yes.

22 MR. GENSON: And he said in that article that  
23 he had already solicited several states for that  
24 litigation and it would have been bizarre for the

1 state to choose someone else to pursue it that I  
2 originally came to them on. That was his quote; is  
3 that correct?

4 MS. CANARY: In the paper, yes, it was.

5 MR. GENSON: In the paper. And you haven't  
6 talked to Myron Cherry to make certain it was  
7 otherwise; have you?

8 MS. CANARY: No, I have not.

9 MR. GENSON: One of the people -- one of the  
10 others that you talked about was a fellow named  
11 Cordogan from Wilton and that's involved as a  
12 subcontractor to Wilton Partners; is that right?

13 MS. CANARY: That's correct.

14 MR. GENSON: Wilton Partners' contract  
15 preceded Governor Blagojevich coming into office; is  
16 that correct?

17 MS. CANARY: I believe that is correct.

18 MR. GENSON: Now, when I look at the list of  
19 donors with the contributions over 25,000, we look --  
20 we think -- we see a number of unions involved?

21 MS. CANARY: Yes.

22 MR. GENSON: We see what appear to be, at  
23 least from my own knowledge, PI lawyers that are  
24 involved?

1 MS. CANARY: That is correct.

2 MR. GENSON: Personal injury lawyers. I'm  
3 sorry?

4 MS. CANARY: That is correct.

5 MR. GENSON: We see race track interests  
6 involved; is that right?

7 MS. CANARY: It certainly is.

8 MR. GENSON: I'm sorry?

9 MS. CANARY: Yes.

10 MR. GENSON: We see all sorts of people that  
11 don't appear -- Illinois Laborers' Legislative,  
12 Illinois Pipe Trades, these are not people that you  
13 understand have jobs with the State of Illinois or  
14 appointments to commissions that you know of?

15 MS. CANARY: I would understand that there  
16 are policy actions that people from all different  
17 fields and interests may have an interest in.

18 MR. GENSON: And so in submitting monies to  
19 politicians of -- well, among Governor Blagojevich is  
20 certainly for reasons other than, as you say,  
21 pay-to-play; is that correct?

22 MS. CANARY: Excuse me, I'm not sure I  
23 understood the question.

24 MR. GENSON: Well, when Anesi Ozmon Rodin and

1 Novack contribute \$25,000 twice, you don't know that  
2 they have any contract with the state or any -- any  
3 appointment to any commission; do you?

4 MS. CANARY: No. And I think that when we  
5 look at pay-to-play, we look at it in its broadest  
6 terms where we look at appointments, jobs, contracts,  
7 and policy outcomes as well.

8 MR. GENSON: And I understand that. But you  
9 don't do any coordination. We're limited to what we  
10 were given that the Tribune has. You didn't  
11 coordinate any of these -- you didn't make --  
12 coordinate any of these contributions with a specific  
13 office or a specific contract. You did not do that;  
14 did you, ma'am?

15 MS. CANARY: We -- we did not make calls to  
16 these people.

17 MR. GENSON: Now, with regard to the  
18 difference -- with regard to the difference in the  
19 different administrations, in your experience it was a  
20 -- it was appropriate or at least allowed that  
21 workers, state workers and different political workers  
22 would donate their time to the given politician come  
23 election time. That was a common practice in prior  
24 administrations; isn't that right?

1           MS. CANARY: That is correct. And I felt it  
2 was very, very inappropriate, which is why we launched  
3 an ethics act in 2003.

4           MR. GENSON: It was so inappropriate that the  
5 federal government convicted one of our -- or, a  
6 number of people because of that; is that right?

7           MS. CANARY: That is correct.

8           MR. GENSON: And so these -- so that the  
9 nature of politics in Illinois was changed by virtue  
10 of the inability of a candidate to enlist people who  
11 work for the state; isn't that right?

12          MS. CANARY: Again, I don't believe I  
13 understand your question.

14          MR. GENSON: They needed to raise more money  
15 in order to get to the people because they didn't have  
16 the volunteers that they had before; isn't that right?

17          MS. CANARY: I don't think that is a fair  
18 characterization. I don't believe that we should ever  
19 be looking at our state employees as our political  
20 volunteer base.

21          MR. GENSON: And I agree with that and so did  
22 the federal government. But they were used. They  
23 were used in the Edgar administration and they were  
24 used in the Ryan administration and they were used

1 until the federal government said that that wasn't  
2 good, that wasn't appropriate; isn't that right?

3 REPRESENTATIVE FRITCHEY: Madam Chairman, I  
4 don't know if she would have personal knowledge of  
5 this.

6 CHAIRWOMAN CURRIE: I'm sure she does not.  
7 So I think this is part of the statement you  
8 might want to make to us when it's your turn,  
9 Mr. Genson.

10 MR. GENSON: I thought she said she did have  
11 knowledge of this and disagreed with it, but I'll go  
12 on.

13 The fact of the matter is campaigns cost a lot  
14 more money; is that right?

15 MS. CANARY: Campaigns are very expensive.  
16 Like all things in life, the cost goes up.

17 MR. GENSON: And certain -- and you said that  
18 Mr. Blagojevich, and at least the numbers show, is a  
19 very prolific fundraiser; is that correct?

20 MS. CANARY: That is correct.

21 MR. GENSON: The fact of the matter is that  
22 people who donate to politicians for the most part are  
23 people who have interests that they want to put forth  
24 to those politicians. Would you say that's correct?

1           REPRESENTATIVE: Madam Chairman, he's asking  
2 the witness to get into the head of the donors, into  
3 their mind-set.

4           CHAIRWOMAN CURRIE: Yeah, this is not  
5 supposed to be a cross-examination. It's not a  
6 criminal trial.

7           MR. GENSON: It's not a cross-examination. I  
8 thought I was trying to clarify what she said.

9           CHAIRWOMAN CURRIE: She may answer if she  
10 feels she can competently do so.

11          MS. CANARY: I think people donate for all  
12 different kinds of reasons.

13          MR. GENSON: Okay. And one of those reasons  
14 and the reasons that seem to be expressed by the  
15 nature of the people that are on that list is they  
16 have an interest that they want to be heard on, isn't  
17 that right?

18          MS. CANARY: That is what the appearance is.

19          MR. GENSON: I have no further questions.

20          CHAIRWOMAN CURRIE: Thank you.

21           Thank you very much for your testimony,  
22 Ms. Canary. And you'll make sure we have copies of  
23 the material that Mr. Genson talked about.

24           Next up is Representative Lou Lang, who I think

1 is going to tell us about some of the responses we got  
2 to questions posed to the Department of Healthcare and  
3 Family Services.

4 I think there's another issue as well, and that  
5 is to make it clear that people whose names came up in  
6 our letter to the United States Attorney's office,  
7 that we are not suggesting that by virtue of naming  
8 them that they've done anything wrong.

9 So just before you start, Lou, I want to just for  
10 the record say that our Exhibit 17 will be materials  
11 from the Policy Procurement Board.

12 18 will be the filing from Mr. Genson in respect  
13 to wiretapping.

14 And Number 19 will be a letter received today,  
15 December 22nd, from Healthcare and Family Services.

16 Mr. Lang.

17 REPRESENTATIVE LANG: Thank you, Madam  
18 Chairman.

19 As you'll recall, at our last meeting members of  
20 the Department of Healthcare and Family Services,  
21 Director Maram, his chief of staff, Tamara Hoffman,  
22 appeared before us, and we asked a lot of questions,  
23 of course. Many of those questions dealt with the  
24 production of documents and other information, also

1 included a request in many areas where Ms. Hoffman  
2 particularly said I don't know, I don't remember, I'll  
3 check my records, I'll check my e-mail, I'll check my  
4 notes, that those records and notes and e-mails were  
5 to be produced as well.

6 Through the end of the day Friday some documents  
7 had been produced, although none were complete, to my  
8 knowledge. The e-mails and notes and other commentary  
9 that were supposed to be forthcoming from the  
10 department had not come forth.

11 I understand that today there's been an  
12 additional production of documents by the department.  
13 We have yet to review all of it to determine if the --  
14 at least the documents are now complete. But a  
15 cursory look at that stack that was provided to us  
16 today does not seem to indicate any response to many  
17 of the questions that were asked where Ms. Hoffman  
18 over and over and over again said I'll get back to  
19 you, I don't know, I'll look at my e-mail, look at my  
20 notes. We don't even have a statement from her or  
21 from the department saying, well, sorry, there are no  
22 notes, there are no e-mails. So far we have no  
23 information. And I just think we want to make that  
24 part of the record.

1           We will review, of course, the documentation and  
2 information that's been provided to us, but it appears  
3 as if the department is not interested in providing us  
4 further information.

5           Additionally, Madam Chairman and ladies and  
6 gentlemen of the committee, we had asked Mr. Maram and  
7 Ms. Hoffman to appear before us again today in an  
8 effort to clarify some issues, to find out where  
9 missing documentation might be. They both declined to  
10 appear, indicating they had apparently better things  
11 to do. So I don't know if they have better things to  
12 do because we were too tough on them, or if they have  
13 better things to do because they were ordered not to  
14 be here by someone above them, or if they have better  
15 things to do simply because they think whatever they  
16 have to do is more important than the work of this  
17 committee.

18           But I just thought I would report to this  
19 committee my view that in a proceeding that's as  
20 serious, as important, as grave, and as necessary to  
21 the future of the State of Illinois as this  
22 proceeding, to have a director of a state agency and  
23 his chief of staff tell us that they cannot appear  
24 when we need them to appear and that something else is

1 more important I find to be appalling. And I just  
2 wanted to make my comment part of the record. Thank  
3 you very much.

4       Additionally, I wanted to comment that the letter  
5 we sent to the U.S. Attorney with specific names in  
6 some areas has caused some measure of consternation  
7 amongst some people. Particularly the area where we  
8 talk about some names of lobbyists and others in the  
9 horse racing area, I think our letter may have made  
10 some people uncomfortable for no reason. I've been  
11 contacted by some people who said, why was I not part  
12 of that letter; I lobby for the horse racing industry.  
13 And I was contacted by other people who indicated, you  
14 know, I -- all I am is a lobbyist; I haven't been  
15 involved in anything.

16       The bottom line is, Madam Chairman and Ladies and  
17 gentlemen, I think in our effort to get a letter to  
18 the U.S. Attorney, we may have left some names out and  
19 we may have put a few names in. I just think it's  
20 important to let people know that we're casting no  
21 aspersions against anybody who is in that section of  
22 the letter, certainly. We don't call them out.

23       The purpose of the letter is not to let people of  
24 Illinois think that any of these folks have done

1 anything wrong, but merely that these were names that  
2 came up in conversation that had been involved in this  
3 industry in some way that might have some information  
4 for us.

5         So to those of you on that list who feel like  
6 you've been accused of something, I don't think anyone  
7 in this committee would disagree when I say no, you've  
8 been accused of nothing. These are just names we came  
9 up with. And I hope this explanation to those who are  
10 on that list who are listening will understand and  
11 respect that the committee is not after you.

12         Thank you very much, Madam Chairman.

13                 CHAIRWOMAN CURRIE: Thank you for the  
14 statement, Representative. I'm sure that the members  
15 of the committee are unanimous in their support for  
16 your words.

17         Representative Fritchey.

18                 REPRESENTATIVE FRITCHEY: Madam Chairman, I'm  
19 in support of the vast majority of the  
20 Representative's words, especially with respect to the  
21 last point.

22                 CHAIRWOMAN CURRIE: I'm sorry, that was the  
23 point that I meant, right.

24                 REPRESENTATIVE FRITCHEY: With respect to the

1 previous point, let me just make a statement, if I  
2 may, just briefly with respect to Director Maram.

3 On a personal level, let me say that I've known  
4 Barry Maram for a long time and I've known Barry Maram  
5 to be a good and honorable man. I don't think any of  
6 us were comfortable on either side with the testimony  
7 that was elicited last week. And I'm not going to  
8 speak for any other committee member other than to  
9 say, though, that any aspersions as to Mr.  
10 Maram's character in my opinion, in the many, many  
11 years that I've known him, I don't think are  
12 warranted.

13 I had held those thoughts all weekend, but I  
14 wanted to bring them out right now just with respect  
15 to one particular point. Please keep in mind, members  
16 of the committee and general public, Barry Maram, as  
17 well as his chief of staff, were here voluntarily last  
18 week. They were not here under subpoena. Mr. Maram  
19 to the best of my knowledge may be the only major  
20 agency director that agreed to appear voluntarily.

21 With respect to his not being here today, it is  
22 not my place to overstate personal information of the  
23 director, but I will tell you that the director does  
24 have a family member who is very ill and she is on the

1 West Coast, and Mr. Maram will be going to meet his  
2 wife who is already on the West Coast with her. And  
3 that is the crux of the reason for him not being here  
4 today.

5 Mr. Lang, I share fully with you your desire to  
6 get at any and all information relevant to these  
7 proceedings, but not to the extent that I am going to  
8 want to condemn somebody for placing the well-being of  
9 a family member -- and, Lou, I know you well, too, and  
10 I know had you known that, you likely would not have  
11 made the statements that you made. But I don't want  
12 us to be in the position of condemning anybody for  
13 prioritizing the well-being of their family over this  
14 or any proceeding.

15 Thank you, Chairman.

16 CHAIRWOMAN CURRIE: Thank you.

17 Representative Lang.

18 REPRESENTATIVE LANG: Thank you.

19 Well, certainly, Representative Fritchey, I did  
20 not know that. But I -- and I've known Mr. Maram as  
21 well. I think he's an honorable person.

22 My comments were only meant to say that people  
23 have to take this seriously. Once submitting  
24 themselves to the jurisdiction of this committee, once

1 agreeing to answer our questions, they should at least  
2 answer them. And it would have been possible for both  
3 Mr. Maram and Ms. Hoffman to answer our questions in  
4 writing, if necessary, and say we decline to appear  
5 further but here's the answers to your questions.

6         So I certainly hope that Mr. Maram's family  
7 member is well. I myself would be at the side of a  
8 family member if needed. So I have great respect for  
9 that. I certainly don't blame him for doing that.  
10 But I do think the department is under an obligation  
11 to answer the questions they promised to answer. If  
12 they had said, no, we're not going to answer those,  
13 then, no, they wouldn't have answered those. But once  
14 having sat at that table and promised to answer the  
15 questions, they're I think duty-bound to answer them,  
16 not just to us, but to the people we represent.

17         REPRESENTATIVE FRITCHEY: Mr. Lang, I fully  
18 agree, and we want to differentiate Barry Maram in his  
19 official capacity as opposed to Barry Maram in his  
20 personal capacity.

21         REPRESENTATIVE LANG: Agreed.

22         CHAIRWOMAN CURRIE: Representative Bost.

23         REPRESENTATIVE BOST: Thank you, Madam  
24 Chairman.

1           And upon that same note, and by no means --  
2 Director Maram, if he has family that is ill and he  
3 needs to go, then that should be the case. However,  
4 his chief of staff could have been here, as well as  
5 simply bringing the information that they made very  
6 clear promises that they would bring.

7           Also, Madam Chairman, I -- we do have subpoena  
8 power and I would not want to be forced -- or, I guess  
9 we could request for to have them be subpoenaed, but  
10 the reality is there were some unanswered questions.  
11 We asked for them to come back. We could have had  
12 this. But this does fly in the face of what we've  
13 been hearing from many others while giving testimony  
14 that anytime someone from the administration -- we're  
15 wanting answers and then we are basically given half  
16 answers. And because of that, it makes it very  
17 difficult to move forward with our business, the same  
18 as it has been the case with many people who have  
19 testified before us.

20           CHAIRWOMAN CURRIE: Representative Rose.

21           REPRESENTATIVE ROSE: Madam Chair, I just --  
22 a number of witnesses have referenced the interest  
23 rate change that occurred with the bond sale last week  
24 versus two weeks prior. Not just Cindy Canary a few

1 moments ago, but over the course of our hearings, too,  
2 people on the record have said I've read the article.  
3 I think it would be helpful to get a letter from the  
4 Treasurer stating what the difference in the interest  
5 rate was and also what the real dollar value amounted  
6 to was, and I believe it would be the Treasurer that  
7 -- or, I'm not really sure if it would be the  
8 Comptroller. But I think it would be helpful to see.  
9 I don't think we need testimony but just a letter  
10 stating what the proposed interest rate was three  
11 weeks ago versus the proposed interest rate today and  
12 the real dollar difference on that.

13 CHAIRWOMAN CURRIE: And do you want an  
14 explanation from the Treasurer as to the Treasurer's  
15 view about why the difference?

16 REPRESENTATIVE ROSE: Sure. That would be  
17 fine.

18 CHAIRWOMAN CURRIE: If the committee is  
19 comfortable with that, then we will -- the Minority  
20 Spokesman and I will write a letter to the Treasurer  
21 asking exactly that.

22 I think we've come to the point where perhaps,  
23 Mr. Genson, Mr. Adam, your colleague, might wish to  
24 speak to us.

1           MR. ADAM: Madam Chair, if I could just say,  
2 the letter that Representative Lang was discussing  
3 regarding coming from the -- the additional  
4 information, we received the letter, but we did not  
5 get a copy of any of the exhibits, at least that --

6           CHAIRWOMAN CURRIE: That letter just came  
7 today.

8           MR. GENSON: The letter we received, I -- I  
9 have this practice of working in my office alone. But  
10 Mr. Ellis, I assume, sent me a quantity of documents I  
11 believe Saturday, which I assume are the exhibits, but  
12 I don't know. I've read them.

13          CHAIRWOMAN CURRIE: Mr. Ellis is nodding that  
14 I think the answer is yes. If there is something  
15 missing, we can certainly make sure that the committee  
16 makes it available to you.

17          MR. GENSON: Well, what we'll do is we'll  
18 compare what we have to what they have now. If  
19 there's anything additional, we'd like to have it.

20          CHAIRWOMAN CURRIE: Yes.

21          MR. ADAM: Thank you, Madam Chairman.

22          CHAIRWOMAN CURRIE: So as we said earlier in  
23 the day, if you have some things that you would like  
24 to tell us, Mr. Genson, at this point, we'd be happy

1 to listen.

2 MR. GENSON: I would like there to be an  
3 adjournment of approximately one week so I can put  
4 together the witnesses that I need to have available.  
5 The fact of the matter is --

6 CHAIRWOMAN CURRIE: So you'd like a delay of  
7 a week?

8 MR. GENSON: One week in order to put  
9 together the list of witnesses and contact the  
10 witnesses. I did not have subpoena power. I've  
11 contacted a number of people and asked them to come.  
12 I haven't gotten response yet.

13 If you recall, we adjourned Thursday. I had  
14 Friday, and I don't have Saturday and Sunday to work  
15 because people don't answer the phones.

16 But I'd like one week in order to determine  
17 whether in fact these people are available so that I  
18 can present them to the committee.

19 CHAIRWOMAN CURRIE: I'd like to -- first of  
20 all, the committee would want to know in advance what  
21 witnesses you would plan to ask to present because  
22 there are some witnesses you may want that probably  
23 are not relevant to our inquiry.

24 MR. GENSON: I --

1 CHAIRWOMAN CURRIE: So we would like to  
2 know --

3 MR. GENSON: I am not going to subpoena  
4 people who I know won't come. I'm not doing that.

5 CHAIRWOMAN CURRIE: I appreciate that. No,  
6 my question is, we would want to look at your list,  
7 because you may be wanting to call people that are  
8 relevant to some inquiry in another forum and not  
9 relevant to what we are about.

10 MR. GENSON: I have no problem to showing it  
11 to you.

12 CHAIRWOMAN CURRIE: And when would you be  
13 willing to show us that list?

14 MR. GENSON: I could bring -- I would talk to  
15 you and give it to you tomorrow morning.

16 CHAIRWOMAN CURRIE: Tomorrow morning.

17 MR. GENSON: Yes.

18 CHAIRWOMAN CURRIE: Okay. And when you say  
19 you'd be ready to come back in a week, can you give us  
20 a sense as to how long you think your presentation --  
21 assuming you got your witnesses, assuming we agreed  
22 with you that they were relevant to our inquiry, how  
23 long do you think your presentation would take?

24 MR. GENSON: Approximately one day.

1 CHAIRWOMAN CURRIE: So you would think a  
2 Monday hearing would be adequate to your purposes?

3 MR. GENSON: Yes.

4 CHAIRWOMAN CURRIE: Representative Black.

5 REPRESENTATIVE BLACK: Madam Chairperson, in  
6 light of Representative Lang's statement,  
7 Representative Fritchey's statement, and in light of  
8 the fact that the minority party does not have  
9 subpoena power, I would like the record to reflect  
10 that I'm asking the chairperson of this committee the  
11 next time we are in session that Tammy Hoffman --  
12 Tamara Hoffman, chief of staff of the Department of  
13 Healthcare and Family Services, be subpoenaed and to  
14 ask specifically to produce the memos and the e-mails  
15 and other material that she was asked to produce and  
16 evidently has not.

17 CHAIRWOMAN CURRIE: Representative Davis.

18 Representative Davis, did you have --

19 REPRESENTATIVE DAVIS: No.

20 CHAIRWOMAN CURRIE: Yeah. I -- you know, let  
21 me just say off the top, I have not had a chance to  
22 read the letter that just came in from the department  
23 in response to our questions. We have some material  
24 that came in, as I understand it, on Friday, and then

1 today there was another letter. And I guess I would  
2 just like, Representative Black, to have a chance to  
3 see what is missing that we think that they could  
4 supply were we to either ask her voluntarily to return  
5 or decide to go ahead with a subpoena. So I would  
6 take your request under advisement and I certainly  
7 don't think it's beyond the scope of our interest or  
8 our responsibility.

9 MR. GENSON: Excuse me, Madam Chairman.

10 CHAIRWOMAN CURRIE: Mr. Genson.

11 MR. GENSON: With regard to the list, would  
12 it be possible when I submit the list to have your  
13 rulings as to the propriety or relevance of those  
14 witnesses? Before Monday. I don't want to bring in a  
15 number of people --

16 CHAIRWOMAN CURRIE: Right. I can appreciate  
17 that.

18 MR. GENSON: -- and then determine it's for  
19 no reason at all.

20 CHAIRWOMAN CURRIE: Yeah. Right. Yes, we  
21 will certainly be happy to do that. And I think what  
22 we probably want to do is that the Minority Spokesman  
23 and I should have a look at your list. And I hope  
24 that not only is it a list but you'll tell us what the

1 relevance of these individual witnesses would be.

2 MR. GENSON: That's my plan.

3 CHAIRWOMAN CURRIE: Yeah, good. That sounds  
4 fine.

5 Is that all right with you, Representative?

6 REPRESENTATIVE DURKIN: Yes.

7 CHAIRWOMAN CURRIE: Representative Bellock.

8 REPRESENTATIVE BELLOCK: Thank you very much,  
9 Madam Chairman.

10 Two things that I think are extremely important  
11 to this committee either to be given to us by Barry  
12 Maram and Tamara Hoffman or by the Comptroller's  
13 office is to quantify the cost of the expansion of the  
14 FamilyCare program and the number of clients involved  
15 in that program during the expansion.

16 CHAIRWOMAN CURRIE: That's a question you  
17 would like the committee to address to Barry Maram and  
18 Tamara Hoffman?

19 REPRESENTATIVE BELLOCK: And to the  
20 Comptroller's office.

21 CHAIRWOMAN CURRIE: Okay. The committee --  
22 Representative Durkin and I can write that letter.

23 REPRESENTATIVE BELLOCK: Thank you.

24 CHAIRWOMAN CURRIE: Representative Rose.

1           REPRESENTATIVE ROSE: Madam Chair, thank you.

2           I think one of the things that, just briefly  
3 looking through the response and communication from  
4 today, it's the notes and e-mails that are missing. I  
5 think at least some of the witnesses' testimony was  
6 they couldn't remember but it would be in their notes  
7 about who were parties to certain conversations. I  
8 think that would be helpful in addition to what  
9 Representative Bellock just asked.

10           CHAIRWOMAN CURRIE: I think her question was  
11 a factual question, what was the cost of the expanded  
12 healthcare program. Is that right? She was not  
13 asking I think about process.

14           REPRESENTATIVE ROSE: No, I know. And I'm  
15 saying as far -- when you're asking them, some of the  
16 documents that they had agreed to produce were notes,  
17 e-mails, et cetera, that included what parties there  
18 were to certain conversations.

19           CHAIRWOMAN CURRIE: I don't think they were  
20 promising to give us their notes and their e-mails.  
21 They were promising to tell us from their notes and  
22 their e-mails who was involved in making decisions  
23 about --

24           REPRESENTATIVE ROSE: That's fair. But I

1 don't see that in what's been produced today.

2 CHAIRWOMAN CURRIE: Okay. All right.

3 Re-request.

4 REPRESENTATIVE ROSE: Thank you.

5 CHAIRWOMAN CURRIE: So the point is there  
6 should be a re-request for the information that did  
7 not come to us in response to Thursday's questioning.  
8 Is that right? Is that a fair statement?

9 REPRESENTATIVE ROSE: Yes.

10 CHAIRWOMAN CURRIE: Okay. Thank you.

11 Representative Mautino.

12 REPRESENTATIVE MAUTINO: Also, there was a  
13 direct request -- and I've looked through the packet  
14 at the information that she gave us already. There  
15 was a request for the sign-off sheets on the form  
16 changes and the instruction for those at the staff  
17 level or the front-line level to go ahead and do the  
18 expansion. And I noticed in the documents there that  
19 was not included. So, make sure we have the actual  
20 sign-offs.

21 CHAIRWOMAN CURRIE: Thank you.

22 Representative Eddy.

23 REPRESENTATIVE EDDY: Thank you, Madam Chair.  
24 Maybe I misunderstood. Maybe it was a different

1 list. But have we heard from the U.S. Attorney  
2 regarding our request at this time?

3 CHAIRWOMAN CURRIE: We have not. We  
4 anticipated we would hear today. Today isn't over.  
5 But as of 3:15 on Monday afternoon, December 22nd, we  
6 do not yet have an answer.

7 REPRESENTATIVE EDDY: Thank you.

8 CHAIRWOMAN CURRIE: We will definitely notify  
9 the members of the committee when we do, and the  
10 answer may have some impact on the remaining schedule  
11 of this committee.

12 Representative Flowers.

13 REPRESENTATIVE FLOWERS: Madam Chairman, in  
14 reading the letter that we got from the Department of  
15 Family -- of Healthcare and Family Services, it states  
16 here that sample invoices and statements sent by the  
17 department to FamilyCare participants for premiums  
18 due, and I don't see the samples. What I see are  
19 samples of bills for advice and counsel for legal  
20 representation. But I don't see any bills --

21 CHAIRWOMAN CURRIE: Yeah. Okay. So what  
22 we'll do, Representative, is we'll ask staff to go  
23 through and find out exactly what questions were  
24 answered by the department either when they gave

1 material to the staff on Thursday and Friday or in  
2 response to -- or in this letter that we received  
3 today. And that will guide us when we're writing the  
4 letter asking the information Representative Bellock  
5 requested as well as everybody else.

6 Representative Lang.

7 REPRESENTATIVE LANG: Thank you.

8 I definitely want to hear from Mr. Genson's  
9 witnesses, but let me ask if the Chair believes it  
10 might be premature to set a date for Mr. Genson's  
11 witnesses because we have not heard from the U.S.  
12 Attorney as of today. I think we all expect we're not  
13 going to get a lot of names from him or directions we  
14 can go, and then maybe we might be ready for  
15 Mr. Genson. But just speculating, what if the U.S.  
16 Attorney says okay, here's ten people on your list you  
17 can subpoena?

18 CHAIRWOMAN CURRIE: Representative, we can  
19 certainly change the schedule. But this is not a  
20 criminal trial. So it's not like the prosecution gets  
21 its turn and then the defense gets its turn. And  
22 Mr. Genson asked for a one-week delay, not to present  
23 today but a week from today. And why don't we at this  
24 moment, at least for purposes of our schedules,

1 consider that we will back in this room a week from  
2 today, Monday, December 29th, and we anticipate at  
3 that time we will hear whatever information Mr. Genson  
4 wishes to present us as long as we decide that it's  
5 relevant to our mission, our charge from the Illinois  
6 House of Representatives. Subject, as always, to  
7 change. That is to say, there could be more hearings  
8 scheduled; there could be a change. If so, we will be  
9 in touch with everybody with new information if new  
10 information becomes available.

11 REPRESENTATIVE LANG: I think that's fair.  
12 Thank you.

13 CHAIRWOMAN CURRIE: All right.  
14 Representative Mendoza.

15 REPRESENTATIVE MENDOZA: Thank you, Madam  
16 Chairwoman.

17 Mr. Genson, I would just request that -- I'm  
18 surely looking forward to hearing from your invitees  
19 in the event that we're able to do that. But  
20 certainly, my top priority would be to hear from your  
21 client, Governor Rod Blagojevich. So hopefully --  
22 I'll ask you to include that as the first and foremost  
23 name on that list. I know we've requested it in a few  
24 instances, but I just think it's worth repeating.

1 Thank you.

2 CHAIRWOMAN CURRIE: Representative Fritchey.

3 REPRESENTATIVE FRITCHEY: Thank you, Madam  
4 Chairman.

5 As it appears that we're going to be wrapping up  
6 for the week, I just want to try to look at the big  
7 picture for just a second. These are very trying  
8 times, not just for this committee and state  
9 government, but for all of Illinois. I would like  
10 just to step back and wish everybody a happy and  
11 healthy holiday season and hope that we take time to  
12 remember those things that are truly important to all  
13 of us. And that's all. Thank you.

14 CHAIRWOMAN CURRIE: And the Chair wishes to  
15 associate herself with the comments of Representative  
16 Fritchey. Happy holidays, one and all.

17 And we will back in this room -- the plan at the  
18 moment is the committee should convene a week from  
19 today at 11 a.m. in this room.

20 And with that, Representative Durkin moves that  
21 the committee stands adjourned.

22 And, yeah, people should prepare --

23 Representative Black, this is particularly  
24 directed to you.

1 People should prepare to be here overnight.

2 So Representative Durkin moves that the committee  
3 stands adjourned.

4 All in favor say aye.

5 All opposed.

6 The ayes have it. The committee stands adjourned  
7 until Monday December 29 at the hour of 11 a.m..

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1 State OF ILLINOIS )  
2 COUNTY OF SANGAMON ) SS

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CERTIFICATE

5 I, Dorothy J. Hart, affiliated with Capitol  
6 Reporting Service, Inc., do hereby certify that I  
7 reported in shorthand the foregoing proceedings; that  
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9 foregoing is a true and correct transcript of the  
10 shorthand notes so taken as aforesaid.

11 I further certify that I am in no way associated  
12 with or related to any of the parties or attorneys  
13 involved herein, nor am I financially interested in  
14 the action.

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Dated this 23rd day of  
December, A.D., 2008, at  
Springfield, Illinois

/s/ Dorothy J. Hart  
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